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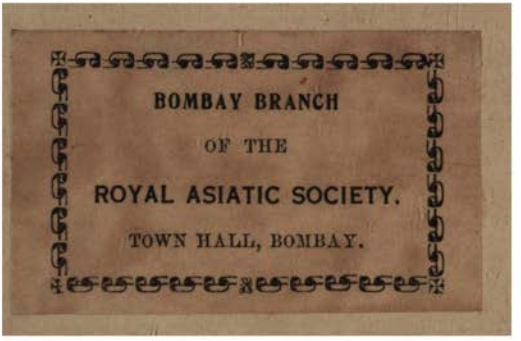

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THE EVOLUTION OF MARRIAGE

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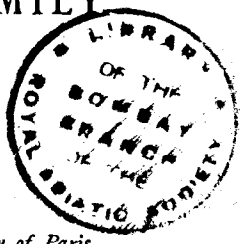

BY

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PREFACE.

A FEW preliminary observations in regard to the aim and method of this work may be useful to the reader.

He will do well to begin by persuading himself, with Montaigne, that the "hinges of custom" are not always the "hinges of reason," and still less those of reality in all times and places. He will do better still to steep himself in the spirit of scientific evolution, and to bear in mind that incessant change is the law of the social, quite as much as of the physical and organic world, and that the most splendid blossoms have sprung from very humble germs. This is the supreme truth of science, and it is only when such a point of view has become quite familiar to us that we shall be neither troubled nor disconcerted by the sociological history of humanity; and however shocking or unnatural certain customs may appear, we shall guard ourselves against any feeling of indignation at them, and more especially against a thoughtless refusal to give credence to them, simply because they run counter to our own usages and morality.

All that social science has a right to ask of the facts which it registers is that they should be authentic; this

duly proved, it only remains to accept, classify, and interpret them. Faithful to this method, without which there could be no science of sociology, I have here gathered together as proofs a number of singular facts, which, improbable as they may appear according to our preconceived notions, and criminal according to our moral sense, are nevertheless most instructive. Although in a former work I have taken care to establish the relativity of morality, the explanations that I am about to make are not out of season; for the subject of this book is closely connected with what, *par excellence*, we call "morals."

On this point I must permit myself a short digression.

No one will pretend that our so-called civilised society has a very strict practical morality, yet public opinion still seems to attach a particular importance to sexual morality, and this is the expression of a very real sentiment, the origin of which scientific sociology has no difficulty in retracing. This origin, far from being a lofty one, goes back simply to the right of proprietorship in women similar to that in goods and chattels—a proprietorship which we find claimed in savage, and even in barbarous countries, without any feeling of shame. During the lower stages of social evolution, women are uniformly treated as domestic animals; but this female live-stock are difficult to guard; for, on the one hand, they are much coveted and are unskilful in defending themselves, and on the other, they do not bend willingly to the one-sided duty of fidelity that is imposed on them. The masters, therefore, protect their own interests by a whole series of vexatious restraints, of rigorous punishments, and of ferocious revenges, left at first to the good pleasure of the marital proprietors, and afterwards

regulated and codified. In the chapter on adultery, especially, will be found a great number of examples of this marital savagery. I have previously shown, in my *Evolution de la Morale*, that the unforeseen result of all this jealous fury has been to endow humanity, and more particularly women, with the delicate sentiment of modesty, unknown to the animal world and to primitive man.

From this evolution of thousands of years there has finally resulted, in countries and races more or less civilised, a certain sexual morality, which is half instinctive, and varies according to time and place, but which it is impossible to transgress without the risk of offending gravely against public opinion. Civilisations, however, whether coarse or refined, differ from each other. Certain actions, counted as blameworthy in one part of the world, are elsewhere held as lawful and even praiseworthy. In order to trace the origin of marriage and of the family, it is therefore indispensable to relate a number of practices which may be scandalous in our eyes. While submitting to this necessity, I have done so unwillingly, and with all the sobriety which befits the subject. I have striven never to depart from the scientific spirit, which purifies everything, and renders even indecency decent.

Like the savages of to-day, our distant ancestors were very little removed from simple animal existence. A knowledge of their physiology is nevertheless necessary to enable us to understand our own; for, however cultivated the civilised man may be, he derives from the humble progenitors of his race a number of instincts which are energetic in proportion as they are of a low order. More or less deadened, these gross tendencies are latent in

the most highly developed individuals; and when they sometimes break out suddenly in the actions of a man's life, or in the morals or literature of a people, they recall to us our very humble origin, and even show a certain mental and moral retrogression.

Now it is to this primitive man, still in such a rudimentary state, that we must go back for enlightenment on the genesis of all our social institutions. We must take him at the most distant dawn of humanity, follow him step by step in his slow metamorphoses, without either disparaging or poetising him; we must watch him rising and becoming more refined through accumulated centuries, till he loses by degrees his animal instincts, and at length acquires aptitudes, inclinations, and faculties that are truly human.

Nothing is better adapted to exemplify the evolution which binds our present to our past and to our future than the sociological history of marriage and of the family.

After having spoken of the aim of this book, it remains for me to justify its method. This differs considerably from what the mass of the public like far too well. But a scientific treatise must not take purely literary works for its models; and I can say to my readers, with much more reason than old Rabelais, that if they wish to taste the marrow, they must take the trouble to break the bone. My first and chief consideration is to assist in the foundation of a new science—ethnographical sociology. Elegant and vain dissertations, or vague generalities, have no place here. It is by giving way to these, and in attempting to reap the harvest before sowing the seed, that many authors have lost themselves in a pseudo-sociology, having no foundation, and consequently no value.

Social science, if it is to be seriously constituted, must submit with docility to the method of natural science. The first task, and the one which especially falls to the lot of the sociologists of the present day, is to collect the facts which will form materials for the future edifice. To their successors will fall the pleasure of completing and adorning it.

The present work is, therefore, above all, a collection of facts which, even if taken alone, are curious and suggestive. These facts have been patiently gleaned from the writings of ethnographers, travellers, legists, and historians. I have classed them as well as I could, and naturally they have inspired me here and there with glimpses of possible inductions, and with some slight attempts at generalisation.

But whether the reader rejects or accepts my interpretations, the groundwork of facts on which they rest is so instructive of itself that a perusal of the following pages cannot be quite fruitless.

CH. LETOURNEAU.

THE EVOLUTION OF MARRIAGE.

THE EVOLUTION OF MARRIAGE AND OF THE FAMILY.

CHAPTER I.

THE BIOLOGICAL ORIGIN OF MARRIAGE.

I. *The True Place of Man in the Animal Kingdom.*—Man is a mammiferous, bimanous vertebrate—Biology the starting-point of sociology—The origin of love.

II. *Reproduction.*—Nutrition and reproduction—Scissiparity—Budding—Ovulation—Conjugation—Impregnation—Reproduction in the invertebrates—The entity called Nature—Organic specialisation and reproduction—A dithyramb by Haeckel.

III. *Rut and Love.*—Rut renders sociable—Rut is a short puberty—Its organic adornment—The frenzy of rut—Physiological reason of rut in mammals—Love and rut—Schopenhauer and the designs of Nature.

IV. *Love of Animals.*—Love and death—The law of coquetry—The law of battle—Jealousy and æsthetic considerations—Love amongst birds—Effects of sexual selection—The loves of the skylark—The males of the blue heron and their combats—Battles of male geese and male gallinaceæ—Courteous duels between males—Æsthetic seduction among certain birds—Æsthetic constructions—Musical seduction—Predominance of the female among certain birds—Greater sensuality of the male—Effect of sexual exaltation—A Cartesian paradox—Individual choice amongst animals—Individual fancies of females—General propositions.

I. *The True Place of Man.*

We have too long been accustomed to study human society as if man were a being apart in the universe. In comparing human bipeds with animals it has seemed as if we were disparaging these so-called demi-gods. It is to this blind prejudice that we must attribute the tardy rise of anthropological sociology. A deeper knowledge of biological science and of inferior races has at last cured us of this childish vanity. We have decided to assign to man his true place in the organic world of our little globe. Granted that the human biped is incontestably the most intelligent of terrestrial animals, yet, by his histological texture, by his organs, and by the functions of these organs, he is evidently only an animal, and easily classed in the series: he is a bimanous, mammiferous vertebrate. Not that by his most glorious representatives, by those whom we call men of genius, man does not rise prodigiously above his distant relations of the mammal class; but, on the other hand, by imperfectly developed specimens he descends far below many species of animals; for if the idiot is only an exception, the man of genius is still more so. In fact, the lowest human races, with whose anatomy, psychology, and sociology we are to-day familiar, can only inspire us with feelings of modesty. They furnish studies in ethnography which have struck a mortal blow at the dreams of "the kingdom of man."

When once it is established that man is a mammal like any other, and only distinguished from the animals of his class by a greater cerebral development, all study of human sociology must logically be preceded by a corresponding study of animal sociology. Moreover, as sociology finally depends on biology, it will be necessary to seek in physiological conditions themselves the origin of great sociological manifestations. The first necessity of societies is that they should endure, and they can only do so on the condition of providing satisfaction for primordial needs, which are the condition of life itself, and which imperatively dominate and regulate great social institutions. Lastly, if man is a sociable animal, he is not the only one; many other species

have grouped themselves in societies, where, however rudimentary they may be, we find in embryonic sketch the principal traits of human agglomerations. There are even species—as, for example, bees, ants, and termites—that have created true republics, of complicated structure, in which the social problem has been solved in an entirely original manner. We may take from them more than one good example, and more than one valuable hint.

My present task is to write the history of marriage and of the family. The institution of marriage has had no other object than the regulation of sexual unions. These have for their aim the satisfaction of one of the most imperious biological needs—the sexual appetite; but this appetite is only a conscious impulse, a "snare," as Montaigne calls it, which impels both man and animal to provide, as far as concerns them, for the preservation of their species—to "pay the ancestral debt," according to the Brahmanical formula. Before studying the sexual relations, and their more or less regulated form in human societies, it will not be out of place to say a few words on reproduction in general, to sketch briefly its physiology in so far as this is fundamental, and to show how tyrannical are the instincts whose formation has been determined by physiological causes, and which render the fiercest animals mild and tractable. This is what I shall attempt to do in the following chapter.

II. *Reproduction.*

Stendhal has somewhere said that the beautiful is simply the outcome of the useful; changing the phrase, we may say that generation is the outcome of nutrition. If we examine the processes of generation in very simple organisms, this great function seems to answer to a superabundance of nutritive materials, which, after having carried the anatomic elements to their maximum volume, at length overflows and provokes the formation of new elements. As long as the new-born elements can remain aggregated with those which already constitute the individual, as long as the latter has not acquired all the development compatible with

the plan of its being, there is simply growth. When once the limit is attained that the species cannot pass, the organism (I mean a very rudimentary organism) reproduces itself commonly by a simple division in two halves. It perishes in doubling itself and in producing two beings, similar to itself, and having nothing to do but grow. It is by means of this bi-partition that hydras, vorticellæ, algæ, and the lowest mushrooms are generally propagated.

In the organisms that are slightly more complicated the function of reproduction tends to be specialised. The individual is no longer totally divided; it produces a bud which grows by degrees, and detaches itself from the parent organism to run in its turn through the very limited adventures of its meagre existence.

By a more advanced step in specialisation the function of reproduction becomes localised in a particular cell, an ovule, and the latter, by a series of repeated bi-partitions, develops a new individual; but it is generally necessary that the cellule destined to multiply itself by segmentation should at first dissolve by union with another cell. Through the action of various organic processes the two generating cells arrive in contact. The element which is to undergo segmentation — the female element — then absorbs the element that is simply impulsive; the element called male becomes impregnated with it, and from that moment it is fertilised, that is to say, capable of pursuing the course of its formative work.

This phenomenon, so simple in itself, of the conjugation of two cellules, is the foundation of reproduction in the two organic kingdoms as soon as the two sexes are separated. Whether the sexes are represented by distinct or united individuals, whether the accessory organic apparatus is more or less complicated, are matters of no consequence; the essential fact reappears always and everywhere of the conjugation of two cellules, with absorption, in the case of superior animals, of the male cellule by the female cellule.

The process may be observed in its most elementary form in the algæ and the diatomaceæ, said to be conjugated. To form a reproductive cellule, or spore, two neighbouring cellules each throw out, one towards the other, a prolongation.

These prolongations meet, and their sides absorb each other at the point of contact; then the protoplasms of the two elements mingle, and at length the two cellules melt into a single reproductive cellule (*Spirogyra longata*).

Between this marriage of two lower vegetal cellules, which realises to the letter the celebrated biblical words, "they shall be one flesh," or rather one protoplasm, and the fundamental phenomenon of fecundation in the superior animals, including man, there is no essential dissimilarity. The ovule of the female and the spermatozoon of the male become fused in the same manner, with this difference only, that the feminine cellule, the ovule, preserves its individuality and absorbs the masculine cellule, or is impregnated by it.

But, simple as it is, this phenomenon of fecundation is the sole reason of the duration of bi-sexual species. Thanks to it, organic individuals that are all more or less ephemeral,

> "Et, quasi cursores, vitaï lampada tradunt."
> (*Lucretius*, ii. 78.)

For many organised beings reproduction seems in reality the supreme object of existence. Numbers of vegetables and of animals, even of animals high in the series—as insects—die as soon as they have accomplished this great duty. Sometimes the male expires before having detached himself from the female, and the latter herself survives just long enough to effect the laying of eggs. Instead of laying eggs, the female cochineal fills herself with eggs to such a degree that she dies in consequence, and the tegument of her body is transformed into a protecting envelope for the eggs.

At the not very distant time when animism reigned supreme, these facts were attributed to calculations of design. Nature, it was believed, occupied herself chiefly with perpetuating organised species; as for individuals, she disdained the care of them. We now know that Nature, as an anthropomorphic being, does not exist; that the great forces called natural are unconscious; that their blind action results, however, in the world of life, in a choice, a selection,

a progressive evolution, or, to sum up, in the survival of the individuals best adapted to the conditions of their existence. Without any intention of Dame Nature, the preservation of the species was necessarily, before anything else, the object of selection; and during the course of geological periods primitive bi-partition gradually became transformed through progressive differentiation into bi-sexual procreation, requiring the concurrence of special and complicated apparatus in order to be effected. But, at the same time as procreation, other functions also became differentiated by the formation of special organs; the nervous system vegetated around the *chorda dorsalis;* and, finally, conscious life awoke in the nervous centres. Thenceforth the accomplishment of the great function of procreation assumed an entirely different aspect. In the lowest stages of the animal kingdom reproduction is effected mechanically and unconsciously. A paramœcium, observed by M. Balbiani, produced in forty-two days, by a series of simple bi-partitions, 1,384,116 individuals, who very certainly had not the least notion of the phenomena by which they transmitted existence. But with superior animals it is very different; in their case the act of procreation is a real efflorescence, not only physical, but psychical. For the study that I am now undertaking it will not be without use to recall the principal features of this amorous efflorescence, since it is, after all, the first cause of marriage and of the family. At the same time, not to lose our standpoint, it is important to bear in mind that at the bottom all this expenditure of physical and psychical force has for motive and for result, both in man and animal, the conjugation of two generative cellules. Haeckel has written a dithyramb on this subject in his *Anthropogenia*, which is in the main so true that I take pleasure in quoting it—"Great effects are everywhere produced, in animated nature, by minute causes. . . . Think of how many curious phenomena sexual selection gives rise to in animal life; think of the results of love in human life; now, all this has for its *raison d'être* the union of two cellules. . . . There is no organic act which approaches this one in power and in the force of differentiation. The Semitic myth of Eve seducing Adam for the love of knowledge, the old Greek

legend of Paris and Helen, and many other magnificent poems, do they not simply express the enormous influence that sexual love and sexual selection have exercised since the separation of the sexes? The influence of all the other passions which agitate the human heart cannot weigh in the balance with love, which inflames the senses and fascinates the reason. On the one hand, we celebrate in love the source of the most sublime works of art, and of the noblest creations of poetry and of music; we venerate it as the most powerful factor in civilisation, as the prime cause of family life, and consequently of social life. On the other hand, we fear love as a destructive flame; it is love that drives so many to ruin; it is love that has caused more misery, vice, and crime than all other calamities together. Love is so prodigious, its influence is so enormous on psychic life and the most diverse functions of the nervous system, that in regard to it we are tempted to question the supernatural effect of our natural explanation. Nevertheless, comparative biology and the history of development conduct us surely and incontestably to the simplest, most remote source of love; that is to say, the elective affinity of two different cellules—the spermatic cell and the ovulary cell."[1]

III. *Rut and Love.*

In a former work on the evolution of morality I have described the manner in which the hereditary tendencies and instincts arise from habit, induced in the nervous cellules by a sufficient repetition of the same acts. The instinct of procreation has, and can have, no other origin. The animal species, during the long phases of their evolution, have reproduced themselves unconsciously, and by very simple processes, which we may still observe in certain zoophytes. By degrees these mere sketches of animals have become perfected and differentiated, and have acquired special organs over which the biological work has been distributed; thenceforth the play of life has echoed in the nervous centres, and has awakened in them impressions and desires, the energy of which

[1] *Anthropogenia*, p. 577.

strictly corresponds to the importance of the functions. Now, there is no more primordial function than procreation, since on it depends the duration even of the species; and for this reason the need of reproduction, or the rut, breaks out in many animals like a kind of madness. The psychic faculties of the animal, whether great or small, are then over-excited, and rise above their ordinary level; but they all tend to one supreme aim—the desire for reproduction. At this period the wildest and most unsociable species can no longer endure solitude; both males and females seek each other; sometimes, even, they are seen to form themselves into groups, or small provisional societies, which will dissolve again after the coupling time is over.

Each period of rut is for animals a sort of puberty. The hair, the plumage, and the scales often assume rich tints which afterwards disappear. Sometimes special epidermic productions appear in the male, and serve him for temporary weapons with which to fight his rivals, or for ornaments to captivate the female. It is with a veritable frenzy that the sexual union is accomplished among certain species. Thus Dr. Günther has several times found female toads dead, smothered by the embrace of the males.[1] Spallanzani was able to amputate the thighs of male frogs and toads during copulation, without diverting them from their work.

In the animal class which more particularly interests us, that of mammals, rut produces analogous, though less violent, phenomena. Now, in this case, we know that erotic fury is closely related to congestive phenomena, having for their seat the procreative glands, which swell in both male and female, and provoke in the latter a veritable process of egg-laying. We must not forget that man, in his quality of mammal, is subject to the common law, that female menstruation is essentially identical with the intimate phenomena of rut in the females of mammals, and corresponds also to an ovarian congestion, or to the swelling and bursting of one or more of the Graafian follicles; it is, in short, a production of eggs. I need not lay stress on these facts, but it is right to recall them by the way, since they are the *raison d'être* of sexual

[1] Darwin, *Descent of Man*, p. 384.

attraction, without which there would be neither marriage nor family.

If we are willing to descend to the foundation of things, we find that human love is essentially rut in an intelligent being. It exalts all the vital forces of the man just as rut over-excites those of the animal. If it seems to differ extremely from it, this is simply because in man the procreative need, a primordial need beyond all others, in radiating from highly developed nervous centres, awakens and sets in commotion an entire psychic life unknown to the animal.

There is nothing surprising to the naturalist in this procreative explosion, which evolves altruism out of egotism. We know too well, however, that it has not appeared so simple a matter to many philosophers and celebrated literary men, little familiar with biological sciences. A belated metaphysician, Schopenhauer, who has lately become fashionable, adopting the ancient stereotyped doctrine which makes Nature an anthropomorphic personage, has gratuitously credited her with quite a profound diplomatic design. According to him, it is a foregone conclusion that she should intoxicate individuals with love, and thus urge them on, without their suspecting it, to sacrifice themselves to the major interest of the preservation of the species. The glance that we have just thrown on the processes of reproduction, from the paramœcium up to man, suffices to refute this dream. I will not, however, dwell on this. What is here of great interest is to inquire how the superior animals comport themselves when pricked by desire, and to note the principal traits of their sexual psychology; for here again we shall have to recognise more than one analogy to what happens in regard to man; and we shall also see later that there exists both in the animal and the man some relation between the manner in which sexual attraction is felt and the greater or less aptitude for durable pairing, and consequently for marriage and the family.

Without giving more time than is necessary to these short excursions into animal psychology, it will be well to pause on them for a moment. They throw a light on the sources of human sociology; they force us also to break

once for all with the abstract and trite theories which have inspired, on the subject of marriage and the family, so much empty writing and so many satiating trivialities. It is in animality that humanity has its root; it is there, consequently, that we must seek the origins of human sociology.

IV. *Loves of Animals.*

In a well-known mystic book occurs an aphorism which has become celebrated—"Love is strong as death." The expression is not exaggerated; we may even say that love is stronger than death, since it makes us despise it. This is perhaps truer with animals than with man, and is all the more evident in proportion as the rational will is weaker, and prudential calculations furnish no check to the impetuosity of desire. For the majority of insects to love and to die are almost synonymous, and yet they make no effort to resist the amorous frenzy which urges them on. But however short may be their sexual career, one fact has been so generally observed in regard to many of them, that it may be considered as the expression of a law—*the law of coquetry*. With the greater number of species that are slightly intelligent, the female refuses at first to yield to amorous caresses. This useful practice may well have arisen from selection, for its result has invariably been to excite the desire of the male and arouse in him latent or sleeping faculties. However brief, for example, may be the life of butterflies, their pairing is not accomplished without preliminaries; the males court the females during entire hours, and for a butterfly hours are years.

We can easily imagine that the coquetry of females is more common amongst vertebrates. When the season of love arrives, many male fishes, who are then adorned with extremely brilliant colours, make the most of their transient beauty by spreading out their fins, and by executing leaps, darts, and seductive manœuvres around the females.

Among fishes we begin already to observe another sexual law, at least as general as the law of coquetry, which Darwin has called the *law of battle*. The males dispute with each other for the females, and must triumph

over their rivals before obtaining them. Thus, whilst the female sticklebacks are very pacific, their males are of warlike humour, and engage in furious combats in their honour. In the same way the male salmon, whose lower jaw lengthens into a crook during the breeding season, are constantly fighting amongst each other.[1]

The higher we ascend in the animal kingdom the more frequent and more violent become two desires in the males—the desire of appearing beautiful, and that of driving away rivals. In South America, the males of the *Analis cristellatus*, a fissilingual saurian, have terrible battles in the breeding season, the vanquished habitually losing his tail, which is bitten off by the victor. An old observer also describes the amorous male alligator as "swollen to bursting, the head and tail raised, spinning round on the surface of the water, and appearing to assume the manner of an Indian chief relating his exploits."[2]

But it is particularly among birds that the sentiment, or rather the passion, of love breaks out with most force and even poetry. It is especially to birds that the celebrated Darwinian theory of sexual selection applies. It is difficult, indeed, not to attribute to this influence the production of the offensive and defensive arms, the armaments, the organs of song, the glands of odoriferous secretion of many male birds, also their courage, the warlike instinct of many of them, and lastly, the coquetry of the females. Let us listen to Audubon, as he relates the loves of the skylark:—"Each male is seen to advance with an imposing and measured step, swinging his tail, spreading it out to its full extent, then closing it again like a fan in the hands of a fine lady. Their brilliant notes are more melodious than ever; they repeat them oftener than usual as they rest on the branch or summit of some tall meadow reed. Woe to the rival who dares to enter the lists, or to the male who simply comes in sight of another male at this moment of veritable delirium: he is suddenly attacked, and, if he is the weaker, chased beyond the limits of the territory claimed by the first occupant. Sometimes several birds are seen engaged in these rude combats, which rarely last more than two or

[1] Darwin, *Descent of Man*, p. 365.
[2] Bartram, *Travels through Carolina*, p. 128 (1791).

three minutes: the appearance of a single female suffices to put an instant end to their quarrel, and they all fly after her as if mad. The female shows the natural reserve of her sex, without which, even among larks, every female would probably fail to find a male [this is a little too flattering for larks, and even for men]. When the latter," continues Audubon, "flies towards her, sighing forth his sweetest notes, she retreats before her ardent admirer in such a way that he knows not whether he is repulsed or encouraged."[1]

In this little picture the author has noted all the striking traits of the love of birds—the courage and jealousy of the male, his efforts to charm the female by his beauty and the sweetness of his song, and finally, the coquetry of the female, who retreats, and thus throws oil on the fire. The combats of the amorous males among many species of birds have been observed and described minutely. "The large blue male herons," says Audubon, "attack each other brutally, without courtesy; they make passes with their long beaks and parry them like fencing masters, often for half-an-hour at a time, after which the vanquished one remains on the ground, wounded or killed."[2]

The male Canadian geese engage in combats which last more than half-an-hour; the vanquished sometimes return to the charge, and the fight always takes place in an enclosed field, in the middle of a circle formed by the band or clan of which the rivals form part.

But it is especially among the gallinaceæ that love inspires the males with warlike fury. In this order of birds nearly all the males are of bellicose temperament. Our barn-door cock is the type of the gallinaceæ—vain, amorous, and courageous. Black cocks are also always ready for a fight, and their females quietly look on at their combats, and afterwards reward the conqueror. We may observe analogous facts, only somewhat masked, in savage, and even in civilised humanity. The conduct of certain females of the *Tetras urogallus* is still more human. According to Kowalewsky, they take advantage of a moment when the attention of the old cocks is entirely absorbed by

[1] Audubon, *Scènes de la Nature dans les Etats Unis*, vol. i. p. 383.
[2] *Ibid.* vol. ii. p. 66.

the anxiety of the combat, to run off with a younger male.[1]

If we may believe certain authors, these amorous duels must not always be taken seriously. They are often nothing more than parades, tourneys, or courteous jousts, merely giving the males an opportunity of showing their beauty, address, or strength. This is the case, according to Blyth, with the *Tetras umbellus*.[2] In the same way, the grouse of Florida (*Tetras cuspido*) are said to assemble at night to fight until the morning with measured grace, and then to separate, having first exchanged formal courtesies.[3]

But among animals, as well as men, love has more than one string to his bow. It is especially so with birds, who are the most amorous of vertebrates. They use several æsthetic means of attracting the female, such as beauty of plumage and the art of showing it, and also sweetness of song. Strength seems often to be quite set aside, and the eye and ear are alone appealed to by the love-stricken males.

Every one has seen our pigeons and doves courteously salute their mates. Many male birds execute dances and courting parades before their females. Thus, for example, do the *Tetras phasaniellus* of North America, herons (*Cathartes jota*), vultures, etc. The male of the red-wing struts about before his female, sweeping the ground with his tail and acting the dandy.[4] The crested duck raises his head gracefully, straightens his silky aigrette, or bows to his female, while his throat swells and he utters a sort of gutteral sound.[5] The male chaffinch places himself in front of the female, that she may admire at her ease his red throat and blue head.[6]

All this æsthetic display is quite intentional and premeditated; for while many pheasants and gallinaceous birds parade before their females, two pheasants of dull colour, the *Crossoptilon auritum* and the *Phasianus Wallichii*, refrain from doing so,[7] being apparently conscious of their modest livery.

[1] Darwin, *Descent of Man*, p. 399.
[2] *Ibid.* p. 403.
[3] Espinas, *Sociétés Animales*, p. 326.
[4] Audubon, *loc. cit.*, vol. i. p. 305.
[5] *Ibid.* vol. ii. p. 50.
[6] Darwin, *Descent of Man*, p. 438.
[7] *Ibid.* p. 438.

Birds often assemble in large numbers to compete in beauty before pairing. The *Tetras cuspido* of Florida and the little grouse of Germany and Scandinavia do this. The latter have daily amorous assemblies, or *cours d'amour*, of great length, which are renewed every year in the month of May.[1]

Certain birds are not content with their natural ornaments, however brilliant these may be, but give the rein to their æsthetic desire in a way that may be called human. Mr. Gould assures us that some species of humming-birds decorate the exterior of their nests with exquisite taste, making use of lichens, feathers, etc. The bower-birds of Australia (*Chlamydera maculata*, etc.) construct bowers on the ground, ornamented with feathers, shells, bones, and leaves. These bowers are intended to shelter the courting parades, and both males and females join in building them, though the former are more zealous in the work.[2] But in this erotic architecture the palm is carried off by a bird of New Guinea, the *Amblyornis inornata*, made known to us by M. O. Beccari.[3] This bird of rare beauty, for it is a bird of Paradise, constructs a little conical hut to protect his amours, and in front of this he arranges a lawn, carpeted with moss, the greenness of which he relieves by scattering on it various bright-coloured objects, such as berries, grains, flowers, pebbles, and shells. More than this, when the flowers are faded, he takes great care to replace them by fresh ones, so that the eye may be always agreeably flattered. These curious constructions are solid, lasting for several years, and probably serving for several birds. What we know of sexual unions among the lower human races suffices to show how much these birds excel men in sexual delicacy.

Every one is aware that the melodious voice of many male birds furnishes them with a powerful means of seduction. Every spring our nightingales figure in true lyric tournaments. Magpies, who are ill-endowed from a musical point of view, endeavour to make up for this organic imperfection

[1] Darwin, *Descent of Man*, p. 433.—Espinas, *Soc. Animales*, p. 326.
[2] *Ibid.* pp. 418, 453.
[3] *Annali del Museo civico di storia naturale di Genova*, t. ix. fase 3-4, 1877.

by rapping on a dry and sonorous branch, not only to call the female, but also to charm her; we may say, in fact, that they perform instrumental music. Another bird, the male of the weaver-bird, builds an abode of pleasure for himself, where he goes to sing to his companion.[1]

Audubon has made one observation in regard to Canadian geese which is in every point applicable to the human species. The older the birds are, he says, the more they abridge the preliminaries of their amours. Their poetic and æsthetic sense has become blunted, and they go straight to their object.

Wherever amongst the animal species supremacy in love is obtained by force, the male, nearly always the more ardent, has necessarily become, through the action of selection, larger, stronger, and better armed than the female. Such is in reality the case in regard to the greater number of vertebrates; certain exceptions, however, exist, and naturally these are chiefly found among birds, as they are more inclined than other types to put a certain delicacy in their sexual unions. With many species of birds, indeed, the female is larger and stronger than the male. It is well known to be the same with certain articulates, and these facts authorise us to admit that there is no necessary correlation between relative weakness and the female sex. Must we therefore conclude, with Darwin, that the females of certain birds owe their excess of size and height to the fact that they have formerly contested also for the possession of the males? We may be allowed to doubt it. Almost universally, whether she is large or small, the female is less ardent than the male, and in the amorous tragi-comedy she generally plays, from beginning to end, a passive *rôle;* in the animal kingdom, as well as with mankind, amazons are rare.

Among birds and vertebrates generally the male is much more impetuous than the female, and therefore he has no difficulty in accepting for the moment any companion whatever.[2] This uncontrollable ardour sometimes even urges the males to commit actual attempts on the safety of the family. Thus it happens that the male canary (*Fringilla*

[1] Espinas, *loc. cit.*, pp. 299, 438.
[2] Darwin, *Descent of Man*, p. 460.

canaria) persecutes his female while she is sitting, tears her nest, throws out the eggs, and, in short, tries to excite his mate to become again a lover, forgetting that she is a mother. In the same way our domestic cock pursues the sitting hen when she leaves her eggs in order to feed.[1]

With the cousins-german of man, the mammals, sexual psychology has a general resemblance to that of birds, but more often it is far less delicate. And besides this, the sexual customs are naturally less refined in proportion as the nervous centres of the species are less perfected. Thus the stupid tatoways meet by chance, smell each other, copulate and separate with the greatest indifference. Our domestic dog himself, although so civilised and affectionate, is generally as gross in his amours as the tatoway.

With birds, as we have seen, the law of battle plays an important part in sexual selection; but it is often counterbalanced by other less brutal influences. This is rarely the case in regard to mammals, with whom especially the right of the strongest regulates the unions. The law of battle prevails among aquatic as well as land mammals. The combats of the male stags, in the rutting season, are celebrated. The combatants have been known to succumb without being able to disentangle their interlocked antlers; but seals and male sperm-whales fight with equal fury, and so also do the males of the Greenland whale.[2]

In mammals, as in birds, and as in man, sexual desire raises and intensifies all the faculties, and seems to elevate the individual above the level of normal life. Animals in a state of rut become bolder, more ferocious, and more dangerous. The elephant, pacific enough by nature, assumes a terrible fury in the rutting season. The Sanskrit poems constantly recur to the simile of the elephant in rut to express the highest degree of strength, nobility, grandeur, and even beauty.

But obviously I must not linger very long over the loves of the animals. My chief object is to study sexual union and marriage amongst human beings. The rut of animals and their sexual passions merely interest us here as preliminary studies, which throw light on the origin of analogous

[1] Houzeau, *Facultés mentales des animaux*, t. 1er. p. 292.
[2] Darwin, *Descent of Man*, pp. 550, 556.

sentiments in mankind. Before leaving this subject, however, it will be useful to note a few more facts which, from the point of view of sexual psychology, bring animals and men near to each other.

The old Cartesian paradox, which makes the animal an unconscious machine, has still many partisans. A widely-prevailing prejudice insists that animals always obey blind instincts, while man alone, *homo sapiens*, made after the image of God, weighs motives, deliberates and chooses. Now, as procreation constitutes one of the great necessities of organised beings, and is an imperious law which no species can elude without disappearing, surely we ought to find amongst animals the most exact regularity in the acts connected with it. Man alone ought to have the privilege of introducing caprice and free choice into love. It is not so, however. On this side of his nature, as on all the others, man and animal approach, resemble, and copy each other. In his celebrated invocation to Venus, Lucretius has truly said, proclaiming the universal empire of the instinct of reproduction—

> "Per te quoniam genus omne animantum
> Concipitur, visitque exortum lumine solis."

The animal, as well as the morally developed man, is capable of preference and individual passion; he does not yield blindly and passively to sexual love.

According to observers and breeders, it is the female who is specially susceptible of sentimental selection. The male, even the male of birds, is more ardent than the female, that is to say, more intoxicated and more sharply pricked by instinct, and thus generally accepts any female whatever: all are alike to him. This is the rule, but it is not without exceptions; thus, the male pheasant shows a singular aversion to certain hens. Amongst the long-tailed ducks some females have evidently a particular charm for the males, and are courted more than the others.[1] The pigeon of the dovecot shows a strong aversion to the species modified by breeders, which he regards as deteriorated.[2] Stallions are often capricious. It was necessary, for example,

[1] Darwin, *Descent of Man*, pp. 460, 461. [2] *Ibid.* p. 457.

to use stratagem in order to induce the famous stallion Monarch to beget Gladiateur, who became still more famous.[1] Analogous facts have been observed in regard to bulls.[2]

But it is more especially the females who introduce individual fancy into sexual love. They are subject to singular and inexplicable aversions. Mares sometimes resist, and it is necessary to deceive them.[3] Female pigeons occasionally show a strong dislike to certain males without apparent cause, and refuse to yield to their caresses. At other times a female pigeon, suddenly forgetting the constancy of her species, abandons her old mate or legitimate spouse to fall violently in love with another male. In the same way peahens sometimes show a lively attachment to a particular peacock.[4] High-bred bitches, led astray by passion, trample under foot their dignity, honour, and all care for nobility of blood, to yield themselves to pug-dogs of low breed or mongrel males. We are told of some who have persisted for entire weeks in these degrading passions, repulsing between times the most distinguished of their own race.[5]

Even among species noted for their fidelity it sometimes happens that acts of sexual looseness are committed. The female pigeon often abandons her mate if the latter is wounded or becomes weak.[6] Misfortune is not attractive, and love does not always inspire heroism.

In concluding this short study of sexual union in the animal kingdom, I will attempt to formulate the general propositions which may be drawn from it.

All organic species undergo the tyranny of the procreative function, which is a guarantee of the duration of the type.

The phenomenon of reproduction, when detached from all the complicated accessories which often conceal it in bi-sexual species, goes back essentially to the conjugation of two cellules.

With intelligent animals the procreative function echoes in the nervous centres under the form of violent desires, which intensify all the psychic and physical faculties in awakening what we call love.

[1] Darwin, *Descent of Man*, p. 575.
[2] *Ibid.* p 576.
[3] *Ibid.* p. 576.
[4] *Ibid.* pp. 458, 459.
[5] *Ibid.* p. 574.
[6] *Ibid.* p. 234.

At its base, the love of animals does not differ from that of man. Doubtless it is never such a quintessence as the love of Petrarch, but it is often more delicate than that of inferior races, and of ill-conditioned individuals, who, though belonging to the human race, seek for nothing in love but, to use an energetic expression of Amyot's Plutarch, to "get drunk."

But among many of the animal species the sexual union induces a durable association, having for its object the rearing of young. In nobility, delicacy, and devotion these unions do not yield precedence to many human unions. They deserve attentive study.

I have now, therefore, to consider marriage and the family amongst the animals.

CHAPTER II.

MARRIAGE AND THE FAMILY AMONGST ANIMALS.

I. *The preservation of species.*—Two great processes of preservation —Different *rôles* of the male and the female in the animal family.

II. *Marriage and the rearing of the young among animals.*—Abandonment of the young in the inferior species—The superior molluscs guard their eggs—Solicitude of spiders for their eggs and their young—Instinctive foresight of insects—Its origin—Larvæ are ancestral forms—The familial instinct amongst birds—Frequency of monogamy amongst birds.

III. *The family amongst animals.*—Intoxication of egg-laying with birds—Absence of paternal love in certain birds—The familial instinct very developed in certain species—Transient nature of their love for the young—Promiscuity, polygamy, and monogamy among mammals —Hordes of sociable animals—Polygamous monkeys—Monogamous monkeys—General observations.

I. *The Preservation of Species.*

Two great processes are employed in the animal kingdom to assure the preservation of the species: either the parents do not concern themselves at all with their progeny, in which case the females give birth to an enormous number of young; or, on the other hand, they are full of solicitude for their offspring, cherishing and protecting them against the numerous dangers that menace them; and, in this last case, the young are few in number. Nature (since the expression is consecrated) proceeds sometimes by a lavish and lawless production, and sometimes by a sort of Malthusianism. Thus a cod lays every year about a million

eggs, on which she bestows no care, and of which only the thousandth, or perhaps even the hundred thousandth part, escapes destruction; turtle-doves, on the contrary, only lay two eggs, but nearly all their young attain maturity. In short, the species is maintained sometimes by prodigality of births and sometimes by a great expenditure of care and affection on the part of the parents, especially of the female. It is almost superfluous to remark that analogous facts are observed in human natality, according as it is savage or civilised.

With animals, as with men, sexual association, when it endures, becomes marriage, and results in the family, that is to say, a union of parents for the purpose of protecting their young. The care of the male for his progeny is more rare and tardy than that of the female. Among animals, as among men, the family is at first matriarchal, and it is only in the higher stages of the animal kingdom that the male becomes a truly constituent part of the family group; but even then, except among certain species of birds, his chief care is less to rear the young than to govern in order to protect them. He plays the *rôle* of a despotic chief, guiding the family when it remains undivided after the rearing of the young, and most frequently acting like a polygamous sultan, without the purely human scruple in regard to incest.

Just as we find amongst animals the two principal types of the human family, the matriarchate and the patriarchate, or rather the maternal and paternal family, so we may observe equally among them all the forms of sexual union from promiscuity up to monogamy; but for enlightenment on these interesting points of sociology, a rapid examination of the animal kingdom is worth far more than all generalities.

II. *Marriage and the Rearing of Young amongst Animals.*

We shall leave entirely unnoticed the inferior kingdom of zoophytes, which are devoid of coalescing nervous centres, and consequently of conscious life. Even the lower types of molluscs do not begin to think of their progeny; they scatter their eggs as plants do their seeds, and leave them.

exposed to all chances. We must go to the superior molluscs to see any care of offspring awakening. In this order, indeed, the most highly developed species watch more or less over their eggs. The taredos carry them stuck together in rings round their bodies; snails often deposit them in damp ground, or in the trunk of a tree; cephalopods fix them in clusters round algæ, and sometimes watch them till they open, after which they leave them to get on as they can in the great world.

With spiders and insects the eggs are often the object of a solicitude and even prolonged forethought, which rejoice greatly the lovers of design. We must observe, however, that the males of spiders and that of the greater number of insects entirely neglect their young; it is again in the female that the care for offspring first awakens. And this is natural, for the eggs have been formed in her body; she has laid them, and has been conscious of them; they form, in a way, an integral part of her individuality.

The females of spiders also take care of their eggs after laying them, enclose them in a ball of thread arranged in cocoons, carry them about with them, and at the moment of hatching set them free, one by one, from the envelope. Amongst some species there is even a certain rearing of the young. Thus the *Nemesia Eleonora* lives for some time in her trapped nest with her young, numbering from twenty to forty.[1]

With insects maternal forethought sometimes amounts to a sort of divining prescience, which the doctrine of evolution alone can explain. There is really something wonderful in the actions of a female insect, as she prepares for her descendants, whom she will never see any more than she has seen her own parents, a special nourishment which differs from her own. It is thus that the sphinx, the pompilus, the sand-wasp, and the philanthus dig holes in the sand, in which they deposit with the eggs a suitable food for the future larvæ.[2]

In order to understand these facts, apparently so inexplicable, we must look not only to the powerful influence of selection, but also to the zoögenic past of the species. With the insect the perfect form is always the

[1] Espinas, *Soc. Animales*, pp. 343, 344. [2] *Ibid.* pp. 344, 345.

last which it assumes, the outcome of all the previous metamorphoses. But the larval form, though actually transitory, must have been for a long time the permanent form, and it had different tastes and needs. At the present time there are still numbers of insects whose larval existence has a much longer duration than that of the so-called perfect insect (May-flies, cockchafers). There are even larvæ which reproduce themselves. Certain others, even though sterile, have not lost the maternal instinct. Thus at the time of the hatching of the nymphs the larvæ of the termites assist the latter to get rid of their envelope. It is therefore probable that, though now transitory, the larval forms of insects have formerly been permanent; they represent ancestral types, which evolution has by degrees metamorphosed into insects that we call perfect. The larvæ, now actually sterile, descend from ancestors which were not so, and in the larvæ of certain species the maternal instinct has survived the reproductive function.[1]

This is doubtless the case with bees and ants; their workers must represent an ancestral form, having preserved the maternal fervour of its anterior state; the winged form, on the contrary, must be relatively recent. It even appears probable that in the republics of ants and bees the laborious workers may have succeeded, in a certain way, in getting rid of sexual needs which cause animals and even men to commit so many mad actions. With them the old maternal instinct has taken the place ceded to it by sexual instinct, and has become enlarged and ennobled. Their affection is no longer exclusively confined to a few individuals produced from their own bowels, but is shared by all the young of the association. In their sub-œsophagian ganglion one care takes precedence of all others—the care of rearing the young. This is their constant occupation and the great duty to which they sacrifice their lives. Maternal love, usually so selfish, expands with them into an all-embracing social affection. It is not impossible that a psychic metamorphosis of the same kind may one day take place in future human societies.

It would even seem that the workers appreciate the

[1] Espinas, *Soc. Animales*, pp. 336-396.

faculty of reproduction all the more for being deprived of it. The queen bee, or rather the fertile female, who is the common mother of all the tribe, has every possible care lavished on her, and is publicly mourned when she dies. If she happens to perish before having young, and then cannot be replaced, the virgin workers despair of the republic; losing for ever "les longs espoirs et les vastes pensées," they give way to an incurable and mortal pessimism.

One primitive form of the family, the matriarchate, which we shall study later, is realised, even in an exaggerated form, by ants and bees. In human societies we shall only find very faint imitations of this system, which has been so strictly carried out by the primates of the invertebrates, and which seems to have inspired the ancients with their fables about the amazons.

The vertebrated species, with the exception of mankind, have founded no society that can be even distantly compared to that of hymenoptera and of ants. With nearly all fishes and amphibia the parents are very poorly developed as regards consciousness, and take no care of their eggs after fecundation. Some species of fishes are, however, endowed with a certain familial instinct, and strange to say, here it is the male who tends his offspring. So true is it, that the imaginary being called Nature has no preference for any special methods, and that in her eyes all processes are good on the one condition that they succeed! Thus the Chinese *Macropus* gathers the fecundated eggs into his jaws, deposits them in the midst of the froth and mucous exuding from his mouth, and watches over the young when they are hatched.[1] The male of synagnathous fishes and the sea-horses carry their eggs in an incubating pouch; the *Chromis paterfamilias*, of the lake of Tiberias, protects and nourishes in his mouth and bronchial cavity hundreds of small fishes.[2]

Other fishes also have more or less care for their young. Salmon and trout deposit their eggs in a depression which they have hollowed out in the sand for the purpose. Fishes, belonging to various families, construct nests and

[1] Darwin, *Descent of Man*, p. 375.
[2] Lortet, *Comptes rendus de l'Académie des Sciences*, 1878.

watch over the young when hatched (*Cranilabrus massa*, *Cranilabrus melops*). Often again it is the male who undertakes all the work. Thus the male of the *Gasterosteus leiurus* is incessantly occupied in fetching the young ones home, and driving away all enemies, including the mother.[1] The male stickleback, who is polygamous, builds a nest and watches with solicitude over the safety and rearing of the young.[2]

Many reptiles are unnatural parents; some, however, already possess some degree of familial instinct. Thus several males of the batrachians assist the female to eject her eggs. The male accoucheur toad rolls the eggs round his feet, and carefully carries them thus. The Surinam toad, the *Pipa Americana*, after having aided the female in the operation of laying the eggs, places them on the back of his companion, in little cutaneous cavities formed for their reception.[3]

The *Cobra capella* bravely defends its eggs. The saurians often live in couples, and the females of crocodiles escort their new-born little ones. Female tortoises go so far as to shelter their young in a sort of nest.[4]

But it is especially among birds and mammals that we find forms of union or association very similar to marriage and the family in the human species. Nothing is more natural; for anatomical and physiological analogy must of necessity lead in its train the analogy of sociology. There is no more uniformity either amongst mammals than amongst men; the needs, the habitat, and the necessities of existence dominate everything, and in order to secure adjustment to these, recourse is had to various processes.

Like men, birds live sometimes in promiscuity, and sometimes in monogamy or polygamy; the familial instinct is also very unequally developed among them. Sometimes even we find their conjugal customs modified by the kind of life they lead. Thus the wild duck, which is strictly monogamous in a wild state, becomes very polygamous when domesticated, and it is the same with the guinea fowl. Civilisation depraves these birds, as it does some men. As may be supposed, it is generally the animals living in

[1] Darwin, *Descent of Man*, p. 379.
[2] *Ibid.* p. 244.
[3] Espinas, *Soc. Animales*, p. 415.
[4] *Ibid.* pp. 416, 417.

troops who are degraded most easily by habitual promiscuity. But this is not always the case; the character of the animal, his mode of life, and the degree of morality previously acquired, determine his manner of acting. It is probable also that certain animals, living in troops during the breeding season, have formerly been less sociable than at present, for they leave the troop and retire apart in couples as soon as they have paired. Social life is burdensome to them.

It is especially interesting to study the various modes of conjugal and familial association amongst birds. This may easily be inferred from the ardour, the variety, and the delicacy they bring to their amours; the moral level among them, to borrow a human expression, is very diverse, according to the species. There are some birds absolutely fickle and even debauched—as, for example, the little American starling (*Icterus pecoris*), which changes its female from day to day; that is to say, it is in the lowest stage of sexual union, a debauched promiscuity, which we only exceptionally find in some hardly civilised human societies.[1] The starling, nevertheless, is not ferocious, like the asturides, to whom, according to Brehm, love seems unknown, and amongst whom the female devours her male, the father and the mother feast on their own young, and the latter, when full grown, willingly eat their parents. These ferocious habits denote a very feeble moral development. But if we may believe a French missionary, Mgr. Farand, bishop of the Mackenzie territory, similar customs still prevail among the Redskins of the extreme north.[2] We shall not, therefore, be too much scandalised at the birds. These cases of moral grossness are, besides, rare enough with them.

Other species, while they have renounced promiscuity, are still determined polygamists. The gallinaceæ are particularly addicted to this form of conjugal union, which is so common, in fact, with mankind, even when highly civilised and boasting of their practice of monogamy. Our barn-door cock, vain and sensual, courageous and jealous, is a perfect type of the polygamous bird. But the polygamous

[1] Houzeau, *Fac. mentales des animaux*, t. ii. p. 380.
[2] *Dix-huit ans chez les sauvages*, etc., p. 374.

habits of the gallinaceæ do not prevent them from experiencing very strong sexual passion. When seized by this frenzy of desire, some of them appear to be senseless of all danger. The firing of a gun, for example, does not alarm a male grouse when swinging his head and whistling to charm his female;[1] but this ardour does not hinder him from being a fickle animal, always in search of new adventures, and always seeking fresh mates.[2]

These examples of wandering fancy are for the most part rare among birds, the majority of whom are monogamous, and even far superior to most men in the matter of conjugal fidelity.

Nearly all the rapacious animals, even the stupid vultures, are monogamous. The conjugal union of the bald-headed eagle appears even to last till the death of one of the partners. This is indeed monogamic and indissoluble marriage, though without legal constraint.[3] Golden eagles live in couples, and remain attached to each other for years without even changing their domicile.[4] But these instances, honourable as they are, have nothing exceptional in them; strong conjugal attachment is a sentiment common to many birds.

With the female Illinois parrot (*Psittacus pertinax*) widowhood and death are synonymous, a circumstance rare enough in the human species, yet of which birds give us more than one example. When, after some years of conjugal life, a wheatear happens to die, his companion hardly survives him a month. The male and female of the *panurus* are always perched side by side. When they fall asleep, one of them, generally the male, tenderly spreads its wing over the other. The death of one, says Brehm, is fatal to its companion. The couples of golden wood-peckers, of doves, etc., live in a perfect union, and in case of widowhood experience a violent and lasting grief. The male of a climbing wood-pecker, having seen his mate die, tapped day and night with his beak to recall the absent one; then at length, discouraged and hopeless, he became silent, but never recovered his gaiety (Brehm). These examples of a fidelity that stands every test, and of the religion of memory,

[1] Espinas, *Soc. anim.*, p. 427.
[2] *Ibid.* p. 421.
[3] Audubon, *loc. cit.*, vol. i. p. 83.
[4] *Ibid.* t. 1er. p. 292.

although much more frequent in the unions of birds than in those of human beings, are not, however, the unfailing rule. With birds, as with men, there seems to be a good number of irregular cases—individuals of imperfect moral development and of fickle disposition. This may be inferred from the facility with which, among certain species of monogamous birds, the dead partner is replaced. Jenner, who introduced vaccination, relates that in Wiltshire he has seen one of a couple of magpies killed seven days in succession, and seven times over immediately replaced. Analogous facts have been observed of jays, falcons, and starlings. Now, when it concerns animals that are paired, each substitution must correspond to a desertion, the more so as the observations were made in the same locality and in the height of the breeding season.[1]

Very peculiar fancies sometimes arise in the brains of certain birds. Thus we see birds of distinct species pairing, and this even in a wild state. These illegitimate unions have been observed between geese and barnacle geese, and between black grouse and pheasants.

Darwin relates a case of this kind of passion suddenly appearing in a wild duck. The fact is related by Mr. Hewitt as follows:—"After breeding a couple of seasons with her own mallard, she at once shook him off on my placing a male pintail in the water. It was evidently a case of love at first sight, for she swam about the new-comer caressingly, though he appeared evidently alarmed and averse to her overtures of affection. From that hour she forgot her old partner. Winter passed by, and the next spring the pintail seemed to have become a convert to her blandishments, for they nested and produced seven or eight young ones."[2] It is difficult not to attribute such deviations as these to motives similar to those by which we are ourselves actuated—to passion, caprice, or depravity. They certainly cannot be accounted for by the theory of mechanical and immutable instinct. Such facts clearly prove that animal psychology, although less complicated than our own, does not differ essentially from it, and consequently throws much light on our present investigation. The adventure of the wild duck, for example, may, without any alteration, be read as a

[1] Darwin, *Descent of Man*, pp. 446, 449.

[2] *Ibid.* p. 455.

human adventure, proving for the hundred-thousandth time that the heart, or what we call by that name, is versatile; that conjugal fidelity does not always resist a strong impression arising from a chance encounter; that novelty has a disturbing effect; and, finally, that indifference and coldness can rarely hold out against the persistent advances of one who loves ardently enough not to yield to discouragement. Dante has already made this last reflection in his celebrated line—

"Amor ch'a null' amato amar perdona."

To quote Dante *à propos* of the illicit amours of a pintail and a wild duck may shock the learned, but the aptness of the quotation proves once more the essential identity of the animal and human organisms.

III. *The Family amongst Animals.*

If the study of the modes of sexual union amongst animals is not useless to the sociologist, that of the animal family is at least quite as interesting. This latter confirms the inductions of theorists relative to the primitive form of the human family. The animal family is especially maternal. The female of birds, immediately she has laid her eggs, experiences a sort of intoxication; to sit becomes for her an imperious need, which completely transforms her moral nature. In January 1871, during the bombardment of Paris, a German shell, bursting in the loft of a house inhabited by one of my friends, was powerless to disturb a female pigeon absolutely enchained by the passion of incubation.

It is amongst birds that the animal family is best constituted; this, however, differs much according to the species, especially as regards the participation of the male in the rearing of the young.

Amongst ducks, the male has no care for his progeny. The male eider resembles the duck in this respect (Audubon). Male turkeys do much worse: they often devour the eggs of their females, and thus oblige the latter

to hide them.[1] Female turkeys join each other with their young ones for greater security, and thus form troops of from sixty to eighty individuals, led by the mothers, and carefully avoiding the old males, who rush on the young ones and kill them by violent blows on the head with their beaks.[2]

Among certain species of gallinaceæ the male leaves to the female the care of incubation and of rearing the young. During this time he is running after adventures, but returns when the young are old enough to follow him and form a docile band under his government.[3] It is important to notice that, amongst birds, the fathers devoid of affection generally belong to the less intelligent species, and are most often polygamous. It seems, therefore, that polygamy is not very favourable to the development of paternal love.[4]

But bad fathers are rare amongst birds. Often, on the contrary, the male rivals the female in love for the young; he guards and feeds her during incubation, and sometimes even sits on the eggs with her. The carrier pigeon feeds his female while she is sitting;[5] the Canadian goose[6] and the crow do the same; more than that, the latter takes his companion's place at times, to give her some relaxation. The blue marten behaves in the same manner.[7] Among many species, male and female combine their efforts without distinction of sex; they sit in turn, and the one who is free takes the duty of feeding the one who is occupied. This is the custom of the black-coated gull,[8] the booby of Bassan,[9] the great blue heron,[10] and of the black vulture.[11] According to Audubon, the blue bird of America works so ardently at the propagation of its species that a single brood does not satisfy him; each couple, therefore, exerts itself zealously, rearing two or three broods at the same time, the female sitting on one, while the male feeds the little ones of the preceding brood.[12]

[1] Espinas, *Soc. Animales*, p. 422.
[2] Audubon, *Scènes de la Nature*, t. 1er. p. 29.
[3] Espinas, *loc. cit.* pp. 421-423.
[4] Audubon, *loc. cit.* t. 1er. p. 209.
[5] *Ibid.* t. ii. p. 13.
[6] *Ibid.*
[7] *Ibid.* t. 1er. p. 167.
[8] *Ibid.* t. ii. p. 199.
[9] *Ibid.* t. ii. p. 476.
[10] *Ibid.* t. ii. p. 70.
[11] *Ibid.* t. 1er. p. 347.
[12] Audubon, *Scènes de la Nature*, t. 1er. p. 317.

But however violent the love of birds for their progeny may be, it lasts only a short time, and is suddenly extinguished when the young can manage for themselves. It is then quite surprising to see the parents drive away by strokes of the beak the little ones they had been nursing with such devoted tenderness a few days before. The birds of several species, however, teach their young to fly before separating from them. The white-headed sea-eagle carries them on its back to give them lessons in flying; grebes, swans, and eiders teach their young to swim, etc. But the family is only of short duration among birds and animals generally, unless, as is the case with some gallinaceæ, the male keeps a few of his daughters to enrich his harem. As a matter of fact, both with birds and other animals, the paternal or maternal sentiment hardly lasts longer than the rearing time. When once the young are full grown, the parents no longer distinguish them from strangers of their species, and it is thus even with monogamic species when the conjugal tie is lifelong; the marriage alone endures, but the family is intermittent and renewed with every brood. We may remark that it is almost the same with certain human races of low development. But, before speaking of man, it will be well to investigate conjugal union and the family amongst the animals nearest to man—the mammals.

From the point of view of duration and strength of the affections, or that which we as men should call their morality, the mammals are far from occupying the first rank in the animal hierarchy; many birds are very superior to them. We find, however, great differences in the morals, according to the species. Many mammals have stopped at the most brutal promiscuity; males and females unite and separate at chance meetings, without any care for the family arising in the mind of the male. The females of mammals being always weaker than the males, no sexual association comparable to polyandry is possible in this class, since, even if she wished it, the female could not succeed in collecting a seraglio of males. But as to polygamy, it is quite different, and this is very common with mammals, especially with the sociable kinds, living in flocks. It is even a necessity of the struggle for existence. Sociability generally proceeds from weakness. The species that are badly armed for fierce

combats, and that have besides some difficulty in finding food, are glad to live in association. Union is strength. The ruminants, for example, do this. Certain carnivorous animals, ill-furnished with teeth and claws, dogs also, and jackals, live in troops for the same reason—that of opposing a respectable front to the enemy. This life in common is certainly favourable to the development of social virtues; it cannot but soften primitive cruelty, and develop altruistic qualities; but it is little conducive to sexual restraint and monogamy. Thus the greater number of sociable mammals are polygamous. The ruminants live in hordes composed of females and young, grouped around a male who protects them, but who expels his rivals and becomes a veritable chief of a band. Very various species compose familial societies in the same manner, and strongly resembling each other.

When the Indian adult elephant renounces the solitary life which strong animals generally adopt, it is in order to found a little polygamous society, from which he expels all the males weaker than himself.[1]

The moufflons of Europe and of the Atlas also form little societies of the same kind in the breeding season.[2]

Among the walrus, says Brehm, the male, who is of very jealous temperament, collects around him from thirty to forty females, without counting young, making altogether a polygamous family sometimes amounting to a hundred and twenty individuals.

The male of the Asaitic *antilope saiga* is inordinately polygamous; he expels all his rivals, and forms a harem numbering sometimes a hundred females.[3]

The polygamic *régime* of animals is far from extinguishing affectionate sentiments in the females towards their husband and master. The females of the guanaco lamas, for example, are very faithful to their male. If the latter happens to be wounded or killed, instead of running away, they hasten to his side, bleating and offering themselves to the shots of the hunter in order to shield him, while, on the contrary, if a female is killed, the male makes off with all his troop; he only thinks of himself.

[1] Darwin, *Descent of Man*, p. 238.
[2] Espinas, *Soc. Animales*, p. 448.
[3] Darwin, *Descent of Man*, p. 238.

In regard to mammals, there is no strict relation between the degree of intellectual development and the form of sexual union. The carnivorous animals often live in couples for the reason previously given ; but this is not an absolute rule, for the South African lion is frequently accompanied by four or five females.[1] Bears, weasels, whales, etc., on the contrary, generally go in couples. Sometimes species that are very nearly allied have different conjugal customs ; thus the white-cheeked peccary lives in troops, whilst the white-ringed peccary lives in couples.[2]

There is the same diversity in the habits of monkeys. Some are polygamous and others monogamous. The wanderoo (*Macacus silenus*) of India has only one female, and is faithful to her until death.[3] The *Cebus capucinus*, on the contrary, is polygamous.[4]

Those cousins-german of man, the anthropoid apes, have sometimes adopted polygamy and sometimes monogamy. Savage tells us that the *Gorilla gina* forms small hordes, consisting of a single adult male, who is the despotic chief of many females and a certain number of young.

Chimpanzees are sometimes polygamous and sometimes monogamous. The polygamous family of monkeys is always subject to the monarchic *régime*. The male, who is at the same time the chief, is despotic ; he exacts a passive obedience from his subordinates, and he expels the young males as soon as they are old enough to give umbrage to him. To sum up, he is at once the father, the protector, and the tyrant of the band. Nevertheless, the females are affectionate to him, and the most zealous among them prove it by assiduously picking the lice fron him, which, with monkeys, is a mark of great tenderness. But the master who has been thus flattered and cringed t sometimes comes to a bad end. One fine day, when ol age has rendered him less formidable, when he is no longe capable of proving at every instant that right must yield t

[1] Darwin, *Descent of Man*, p. 443.
[2] Espinas, *loc. cit.* p. 443.
[3] Houzeau, *Facultés mentales des animaux*, t. ii. p. 394.
[4] Darwin, *Descent of Man*, p. 238.
[5] Espinas, *loc. cit.* p. 453.

might, the young ones, so long oppressed, rebel, and assassinate this tyrannous father. We must here remark, that whatever the form of sexual association among mammals, the male has always much less affection for the young than the female. Even in monogamous species, when the male keeps with the female, he does so more as chief than as father. At times he is much inclined to commit infanticides and to destroy the offspring, which, by absorbing all the attention of his female, thwart his amours. Thus, among the large felines, the mother is obliged to hide her young ones from the male during the first few days after birth, to prevent his devouring them.

I shall here conclude this very condensed study of sexual association and the family in the animal kingdom. My object is not so much to exhaust the subject, as to bring into relief the analogies existing between man and the other species. The facts which have been cited are amply sufficient for this purpose, and we may draw the following general conclusions from them:—

In the first place there is no premeditated design in nature; any mode of reproduction of sexual association and of rearing of young that is compatible with the duration of the species may be adopted. But in a general manner it may be said that a sort of antagonism exists between the multiplicity of births and the degree of protection bestowed on the young by the parents.

A rough outline of the family is already found in the animal kingdom; it is sometimes patriarchal, as with sticklebacks, etc., but most often it is matriarchal. In the latter case the female is the centre of it, and her love for the young is infinitely stronger and more devoted than that of the male. This is especially true of mammals, with whom the male is generally an egoist, merely protecting the family in his own personal interest.

The familial instinct, more or less developed, exists in the greater number of vertebrates, and in many invertebrates. From an early period it must have been an object of selection, since it adds considerably to the chances of the duration of the species. With some species (ants, bees, termites) this instinct has expanded into a wide social love, resulting in the production of large societies of

complex structure, in which the family, as we understand it, is unknown. I lay stress on this fact, for it is of great importance in theoretical sociology; it proves, in fact, that large and complicated societies, with division of social labour, can be maintained without the institution of the family. We are not, therefore, warranted in pretending, as is usually done, that the family is absolutely indispensable, and that it is the "cellule" of the social organism. Let us observe, by the way, that the expression "social organism" is simply metaphorical, and we must beware of taking it literally, as Herbert Spencer, with a strange naïveté, seems to have done. Societies are agglomerations of individuals in which a certain order is necessarily established; but it is almost puerile to seek for, and to pretend to find in them, an actual organisation, comparable, for example, to the anatomic and physiologic plan of a mammal.

Terminating this short digression, I revert to my subject by summing up the results of our examination of sexual associations among the animals.

In regard to marriage, as well as to the family, nature has no preference; all means are welcome to her, provided the species profits by them, or, at least, does not suffer too much from them.

We find amongst animals temporary unions, at the close of which the male ceases absolutely to care for the female; but we also find, especially among birds, numbers of lasting unions, for which the word marriage is not too exalted. It does not appear that polyandry—that is, a durable society between one female and many males—has been practised by animals. The female, nearly always weaker than the male, could not reduce a number of them to sexual servitude, and the latter have never been tempted to share one female systematically. On the contrary, they are often polygamous. But it is especially amongst mammals that polygamy is common, and it must often have had its *raison d'être* either in the sexual proportion of births, or in a greater mortality of males. These are reasons I shall have to refer to later, in speaking of human polygamy.

But if polygamy is frequent with mammals, it is far from being the conjugal *régime* universally adopted; monogamy is common, and is sometimes accompanied by so

much devotion, that it would serve as an example to human monogamists.

It is important also to notice that, in regard to animals, the mode of sexual association may vary without much difficulty. No species is of necessity and always restricted to such or such a form of sexual union. An animal belonging to a species habitually monogamous may very easily become polygamous. In short, there does not seem to be any relation between the degree of intelligence in a species and its conjugal customs.

In the following chapters it will be seen that, in great measure, these observations do not apply exclusively to animals.

CHAPTER III.

PROMISCUITY.

I. *Has there been a Stage of Promiscuity?*—Promiscuity rare among the superior vertebrates—It has been exceptional in mankind.

II. *Cases of Human Promiscuity.*—Promiscuity among the Troglodytes, the ancient Arabs, the Agathyrses, the Anses, the Garamantes, the ancient Greeks, in the *Timæus*, in China, in India, among the Andamanites, in California, among the aborigines of India, among the Zaporogs, and the Ansarians—Insufficience of these proofs.

III. *Hetaïrism.—Jus primæ noctis*—Religious hetaïrism at Babylon, in Armenia—Religious prostitution—Religious defloration—The *jus primæ noctis* with the Nasamons, in the Balearic Isles, in ancient Peru, in Asia, etc.—The right of the chief with the Kaffirs, in New Zealand, in New Mexico, in Cochin-China, in feudal Europe—The right of religious prelibation—Religious defloration in Cambodia—The reason of the right of prelibation—The *jus primæ noctis* confounded with the simple licence of unmarried women—Shamelessness of girls in Australia, Polynesia, America, Malaya, Abyssinia, etc.—The *indotata* in primitive Rome—Loan and barter of women in America and elsewhere, and among the ancient Arabs—Actual promiscuity has been rare in humanity.

I. *Has there been a Stage of Promiscuity?*

Having made our preliminary investigation of love, sexual unions, marriage, or what corresponds to it, and the family in the animal kingdom, we are now in a position to approach the examination of corresponding social facts in regard to man. The method of evolution requires us to begin our inquiry with the lowest forms of sexual association, and there is none lower, morally and intellectually, than promiscuity; that is to say, a social condition so gross

that within a group, a horde, or a tribe, all the women belong, without rule or distinction, to all the men. In a society so bestial there is surely no room for what we call love, however grossly we may understand this sentiment. There is no choice, no preference; the sexual need is reduced to its simplest expression, and absolutely debased to the level of the nutritive needs; love is no more than a hunger or thirst of another kind; there is no longer any distinction between the man and the tatoway.

Some sociologists have affirmed, without hesitation, that community of women represented a primitive and necessary stage of the sexual associations of mankind. Surely they would have been less dogmatic on this point if, before approaching human sociology, they had first consulted animal sociology, as we have done. We have seen that many vertebrated animals are capable of a really exclusive and jealous passion, even when they are determined polygamists. As a matter of fact, the vertebrates with whom love is merely a need, like any other, seem to be a very small minority. Some among them, especially birds, are models of fidelity, constancy, and devoted attachment, which may well inspire man with feelings of modesty. Mammals, while less delicate in their love than many birds, are, however, for the most part, already on a moral level incompatible with promiscuity. The mammals nearest to man, those whom we may consider as the effigies of our nearest animal ancestors, the anthropoid apes, are sometimes monogamous and sometimes polygamous, but, as a rule, they cannot endure promiscuity. Now, this fact manifestly constitutes a very strong presumption against the basis of the theory according to which promiscuity has been, with the human species, the primitive and necessary stage of sexual unions. Do we thus mean to say that there is no example of promiscuity in human societies, primitive or not? Far from it. It would be impossible to affirm this without neglecting a large number of facts observed in antiquity or observable in our own day. But we are warranted in believing that the very inferior stage of promiscuity has never been other than exceptional in humanity. If it has existed here and there, it is that by the very reason of the relative superiority

of his intelligence, man is less rigorously subject to general laws, and that he knows sometimes how to modify or infringe them; there is more room for caprice in his existence than in the life of the animals.

II. *Some Cases of Human Promiscuity.*

Human groups have, then, practised promiscuity, and it is not quite impossible that some of them practise it still. Exceptional as these facts may be, they are interesting to sociologists, and it is important to mention and to criticise them also. We are indebted for our knowledge of a certain number of them to the writers of Greco-Latin antiquity. I will give them in full, at least those that deserve or have obtained more or less credit.

"Throughout the Troglodyte country," relates Strabo, "the people lead a nomad life. Each tribe has its chief, or *tyrant*. The women and the children are possessed in common, with the exception of the wives and children of the chief, and whoever is guilty of adultery with one of the wives of the chief is punished by a fine consisting of the payment of a sheep."[1]

Another passage of Strabo's, which is better known, is often quoted as proving a primitive epoch of promiscuity among the ancient Arabs also. This passage is curious and interesting, but it has not in the least the extent of signification that is attributed to it. Concerning the conjugal customs of the peoples of Arabia Felix, Strabo speaks as follows:—"Community of goods exists between all the members of the same family, but there is only one master, who is always the eldest of the family. They have only one wife between them all, and he who can forestall the others enters her apartment the first, and enjoys her, after having taken the precaution of placing his staff across the door (it is the custom for every man to carry a staff). She never spends the night with any but the eldest, the chief. This promiscuity makes them all brothers. We must add that they have commerce with their own mothers. On the other hand, adultery, which means for them commerce with a lover who is not of the family, is pitilessly punished with death. The

[1] Herodotus, Book xvi. p. 17.

daughter of one of the kings of the country, who was marvellously beautiful, had fifteen brothers, all desperately in love with her, and who, for this reason, took turns in enjoying her without intermission. Fatigued with their assiduity, she invented the following stratagem. She procured staffs exactly similar to those of her brothers, and when one of them left her, she quickly placed across the door the staff similar to that of the brother who had just quitted her, then replaced it shortly after by another, and so on, taking care not to place there the staff like the brother's whose visit she was expecting. Now, one day, when all the brothers were together in the public place, one of them went to her door, and concluded, at the sight of the staff, that some one was with her; but, as he had left all his brothers together, he believed in a flagrant act of adultery, hastened to seek their father, and led him to the spot. He was, however, forced to acknowledge in his presence that he had slandered his sister."[1]

Even admitting the perfect accuracy of the fact related by Strabo (and there is nothing in it to surprise an ethnographical sociologist), the word promiscuity is here quite inappropriate. The custom of maternal incest, which is not without example, perhaps warrants the supposition of ancient familial promiscuity; but in reality the Arabs of whom Strabo speaks were simply polyandrous, and they were so precisely in the manner of the Thibetans of the present day; they practised fraternal polyandry—a conjugal form to which we shall presently return.

The other examples of so-called promiscuity related by the writers of antiquity are, unfortunately, so briefly given that it is difficult to judge of their value.

"The Agathyrses" (Scythians), says Herodotus, "are the most delicate of men; their ornaments are chiefly of gold. They have their women in common in order that they may all be brothers, and that, being so nearly related, they may feel neither hatred nor envy against each other."[2]

In another passage Herodotus says of the Massagetes (Scythians), "Each man marries a wife, but they use them all in common." The assertion is grossly contradictory, and can only relate to the extremely loose manners of the

[1] Strabo, vol. xvi. ch. iv. p. 25. [2] Herodotus, Book i. p. 216.

unmarried women. As a matter of fact, amongst many savage or barbarous peoples chastity is not imposed on the women, as long as they have no proprietors. "When one of them desires a woman," continues Herodotus, "he suspends his quiver in front of his chariot, and tranquilly unites with her."[1]

This is merely a trait of very free manners, which may be placed by the side of many others, proving that modesty has been slow of growth in the human brain. The Tahitians were still more cynical than the Massagetes. Herodotus himself speaks of black Indians (Tamils) "who coupled as publicly as beasts" (iii. 101), and V. Jacquemont has related that Runjeet Singh would ride with one of his wives on the back of an elephant and take his pleasure publicly with his companion, careless of censure (V. Jacquemont, *Corres.*, 16th March 1831). It would be very easy, by searching into ethnography, to accumulate facts of this kind; but for the moment I have only to continue my examination of old Greco-Roman texts relating more or less to promiscuity. I therefore return to them. Herodotus again relates, in speaking of the Anses, an Ethiopian tribe: "Their women are common; they do not live with them, but couple after the manner of beasts. When a vigorous child is born to a woman, all the men go to see it at the third month, and he whom it most resembles acknowledges it for his."[2] And here we have Pliny saying also of the Garamantes: *Garamantes matrimoniorum exsortes, passim cum feminis degunt.*[3]

Strabo, too, affirms of the Celtic population of Ierne (Ireland), "the men have public commerce with all kinds of women, even with their mothers and sisters."[4]

The passages that I have just quoted are those which are most frequently used to support the pretension that human societies have begun with promiscuity; they are at once the most ancient, most authentic, and most explicit. We may add to them the assertion of Varro, quoted by Saint Augustine,[5] according to which the Greeks, prior to the time of Cecrops, lived in promiscuity. But how is it possible

[1] Herodotus, iv. 104.
[2] *Ibid.* iv. 180.
[3] Pliny, v. 8.
[4] Strabo, iv. 4.
[5] Varro, *Apud. August. de Civit. Dei.* xviii. 9.

not to be struck with the weakness of these historical proofs? Some of them are mere general assertions, while others plainly relate either to social anomalies or to cases of polyandry. There is no doubt as to this in regard to the ancient Arabs of whom Strabo speaks, and also to the Protohellenes of Varro. This last instance certainly relates to the matriarchal family, of which I shall have to speak again at some length. In fact, after having stated that the Protohellenes had no marriage, Varro adds that the children only knew their mother and bore her name. The proof is decisive, for the matriarchate does not in the least exclude marriage, as we shall see later, and in the case of the Lydians it lasted until the time of Herodotus.

In order to complete this review of ancient texts, I will mention further the passage of the *Timæus* in which Socrates speaks of the community of wives:—"On the subject of the procreation of children we established a community of wives and children; and we devised means that no one should ever know his own child. They were to imagine that they were of one family, and to regard those who were within a certain limit of age as brothers and sisters; and again, those who were of an elder generation as parents and grandparents, and those who were of a younger generation as children and grandchildren."

But Plato had a lively imagination. He was a "great dreamer," as Voltaire said of him, and this passage evidently describes a purely utopian society.

Traditions relative to a very ancient epoch of promiscuity are found here and there outside the Greco-Roman world. In China, for example, the women are said to have been common until the reign of Fouhi.[1] A tradition of the same kind, but more explicitly stated, is mentioned in the Mahabharata (i. 503): "Formerly it was not a crime to be faithless to a husband; it was even a duty. . . . This custom is observed in our own days among the Kourous of the north. . . . The females of all classes are common on the earth; as are the cows, so are the women; each one has her caste. . . . It is Civéta-Ketou who has established a limit for the men and women on the earth."[2] This

[1] Goguet, *Orig. des lois*, t. iii. p. 388.

[2] Quoted by Giraud Teulon, *Orig. de la Famille*, p. 66.

assertion is vague, and has not the least proof to support it.

If, continuing our inquiry, we attempt to correct these historical documents by ethnographical information, we shall hardly find, on this side of the subject more than on the other, anything but simple assertions, which are either too vague or too brief, or evidently open to dispute.

In the Andaman Islands, or at least in certain of them, the women are said to have been held in common till quite recently. Every woman belonged to all the men of the tribe, and resistance to any of them was a crime severely punished.[1] This time we seem to have found, at length, a case of actual legal promiscuity. But, according to other accounts, the Andamanite man and woman contract, on the contrary, a monogamic and temporary union, and remain together, in case of pregnancy and maternity, until the child is weaned, as do many animals.[2] Now, however short a conjugal union may be, it is incompatible with promiscuity.

The indigenous Indians of California, who are among the lowest of human races, couple after the manner of inferior mammals, without the least formality, and according to the caprice of the moment.[3] They are said even to celebrate feasts and propitiatory dances, which are followed by a general promiscuity.[4]

According to Major Ross King, some aboriginal tribes of India, notably the Kouroumbas and the Iroulas, have no idea of marriage, and live in promiscuity.[5] The only prohibitory rule consists in not having intimate commerce with a person belonging to another class or caste; but there seem only to be two classes in the tribe.

Barbarous tribes belonging to white races are said also to have practised promiscuity in modern times. Among certain tribes of the Zaporog Cossacks the women are said to be common, and are confined in separate camps.[6] Besides these, the Ansarians, mountaineers of Syria, are

[1] *Trans. Ethn. Soc.*, New Series, vol. ii. p. 35.
[2] *Ibid.* vol. v. p. 45.
[3] Bagaert, *Smithsonian Report*, p. 368, 1863.
[4] Bancroft, *Native Races of Pacific*, vol. i. p. 352.
[5] Wake, *Evolution of Morality*, vol. i. p. 110.
[6] Campenhausen, *Bemark. über Russland.*

said to practise, not promiscuity pure and simple, or civil promiscuity, but a religious promiscuity, analogous to that of the ancient Gnostics[1] and the Areoïs of Tahiti. These Ansarians must doubtless have been confounded with the Yazidies, a sect of Arabs, also Syrians, practising a sort of manichæism, and who, it is said, assemble periodically every month, or every three months, in fraternal agapæ, at the conclusion of which they unite in the darkness without heed as to adultery or incest. Throughout the Syrian Orient the erotic festival of the Yazidies is called by a significant name, *Daour-el-Cachfeh*—the game of catching.[2] But even if the fact were true, what does it show? Only one more aberration to the score of the phallic religions.

Here I end my enumeration. Evidently nothing very convincing results from it. The greater number of the facts that I have just quoted have either been carelessly observed, or contested, or affirmed by a single witness, or depend merely on hearsay evidence. It is prudent, therefore, to regard them with lawful suspicion, and even if certain of them are exact, we must be careful not to draw general conclusions from them. Promiscuity may have been adopted by certain small human groups, more probably by certain associations or brotherhoods. Thus the chiefs of the Namaquoi Hottentots willingly held their wives in common.

When we come to study the family we shall find that among the Kamilaroi of Australia all the women of one clan are reputed to be the wives of all the men of another. But this community is often only fictitious, and, besides, it is already regulated; it is not promiscuity pure and simple. So far, nothing proves sufficiently that there has been a universal stage of promiscuity among mankind. Some theorists have been so hasty to come to a conclusion on this point that they have gone beyond actual experience. Moreover, as I have been careful to remark, the simple fact that man is a mammalian primate weakens this hypothesis in advance, since the nearest relations of man in the animal kingdom are in general polygamous, and even sometimes monogamous.

[1] Volney, *Syria*, ch. iii.

[2] Mayeux, *Les Bédouins ou Arabes du Desert* (1816), t. 1er. pp. 187, 189.

III. *Hetaïrism.—Jus primæ noctis.*

Not only is it impossible to admit that mankind has, in all times and places, passed through a necessary stage of promiscuity, but we must go further, and also renounce a theory which has had some degree of success lately—the theory of obligatory primitive hetaïrism. According to this theory, when the instinct of holding feminine property arose in man, some individuals arrogated the right to keep for themselves one or more of the women hitherto common. The community then protested, and while tolerating this derogation from ancient usage, exacted that the bride, or purchased woman, should make an act of hetaïrism, or prostitution, before belonging to one man only.

It is Herodotus who has transmitted to us the most striking example of this kind, the one invoked by all the theorists of hetaïrism. I shall, therefore, quote it at length: "The most disgraceful of the Babylonian customs is the following. Every native woman is obliged, once in her life, to sit in the temple of Venus and have intercourse with some stranger. And many, disdaining to sit with the rest, being proud on account of their wealth, come in covered carriages, and take up their station at the temple with a numerous train of servants attending them. But the far greater part do this: many sit down in the temple of Venus, wearing a crown of cord round their heads; some are continually coming and others are going out. Passages marked out in a straight line lead in every direction through the women, along which strangers pass and make their choice. When a woman has once seated herself, she must not return home till some stranger has thrown a piece of silver into her lap and lain with her outside the temple. He who throws the silver must say thus: 'I beseech the goddess Mylitta to favour thee;' for the Assyrians call Venus Mylitta. The silver may be ever so small, for she will not reject it, inasmuch as it is not lawful for her to do so, for such silver is accounted sacred. The woman follows the first man that throws, and refuses no one. But when she has had intercourse, and has absolved herself from her obligations to the goddess, she returns home; and after that

time, however great a sum you may give her, you will not gain possession of her. Those that are endowed with beauty and symmetry of shape are soon set free; but the deformed are detained a long time, from inability to satisfy the law, for some wait for a space of three or four years. In some parts of Cyprus there is a custom very similar."[1]

After having read this passage, we are surprised at the import that has been attributed to it. Even admitting the obligation and universality of the custom in ancient Babylon, it is only an example of religious prostitution, with traces of exogamy. The Babylonians honoured Mylitta, just as the Armenians, according to Strabo,[2] venerated the goddess Anaïtis. "They have erected temples to Anaïtis in various places, especially in the Akilisenus, and have attached to these temples a good number of hierodules, or sacred slaves, of both sexes. So far, indeed, there is no ground for astonishment; but their devotion goes further, and it is the custom for the most illustrious personages to consecrate their virgin daughters to the goddess. This in no way prevents the latter from easily finding husbands, even after they have prostituted themselves for a long time in the temples of Anaïtis. No man feels on this account any repugnance to take them as wives."

I quote in full these venerable passages, which have been so much used and abused, in order that it may not be possible to mistake their signification. Once more we repeat that they merely relate to erotico-religious aberrations. The procreative need, or delirium, has inspired men with many foolish ideas, and probably will continue to do so. A very slight knowledge of mythology is enough to show us that numerous cults have been founded on the sexual instinct, and these cults are naturally accompanied by special practices, little in accordance with our European morality. Religious prostitution, which was widely spread in Greek antiquity, has been also found in India, where every temple of renown had its bayadères, the only women in India to whom, until quite recently, any instruction was given.

The far more peculiar custom of *Tchin-than*, or religious

[1] Herodotus, Book i. 199. [2] Strabo, vol. xi. 14.

defloration, formerly in use in Cambodia[1] and in Malabar, is evidently akin to religious prostitution. But this custom is nothing else than a mystic transformation of what was called the *jus primæ noctis*, of which I must first speak. It is important to distinguish several varieties of it. The first and most simple was the custom by which every newly-married woman, before belonging to her husband, was obliged to give herself, or be given, to a certain number of men, either relatives, friends, or fellow-citizens. This was the custom among the Nasamons, according to Herodotus: "When a Nasamon marries, custom requires that his bride should yield herself on the first night to all his guests in turn; each one who has had commerce with her makes her a present, which he has been mindful to bring with him."[2]

A similar custom is said to have existed in various countries of the globe, in ancient times in the Balearic Isles, more recently among the ancient Peruvians, in our own times among several aboriginal tribes of India; in Burmah, in Cashmere, in the south of Arabia, in Madagascar, and in New Zealand;[3] but always as an exceptional practice, in use only in a small group or tribe. It is not impossible that here and there this usage, which is rare enough, may have been derived traditionally from an ancient marriage by classes, analogous to that still found among the Kamilaroi of Australia; but it may have been simply a mark of good-fellowship, or of conjugal generosity on the part of the bridegroom.

The seignorial *jus primæ noctis*, the right of the lord, is much more widely spread, and its existence cannot be contested. Among the Kaffirs, says Hamilton,[4] the chiefs have the choice of the women for several leagues round. So also, until lately, in New Zealand, every pretty girl was *taboo* for the vulgar, and had to be first reserved for the chief.[5] In New Mexico, with the Tahous, as Castañeda informs us, it is necessary, after having purchased the girl from her parents, to submit her to the seignorial right of

[1] Abel de Rémusat, *Nouv. mél. Asiatiques*, p. 116.
[2] Herodotus, iv. 172.
[3] Giraud Teulon, *Orig. de la Famille*, p. 69.
[4] Darwin, *Descent of Man*, p. 651.
[5] *Ibid.* p. 651.

the cacique, or to a priest of high rank. Religion already begins to insinuate itself into this singular right.[1]

According to Marco Polo, the same custom existed in the thirteenth century in Cochin-China. "Know," says the old chronicler, "no woman can marry without the king first seeing her. If she pleases him, he takes her to wife; if she does not please him, he gives her enough from his own property to enable her to marry.

"In the year 1280 of Christ, when Messire Marco Polo was in that country, the king had three hundred and eighty-six children, male and female."[2]

Under the feudal system in Europe this right of prelibation, or marquette (designated in old French by the expressive term *droit de culage*), has been in use in many fiefs, and until a very recent epoch. Almost in our own days certain lords of the Netherlands, of Prussia, and of Germany, still claimed it. In a French title-deed of 1507 we read that the Count d'Eu has the right of prelibation in the said place when any one marries.[3] More than this, ecclesiastics, and even bishops, have been known to claim this right in their quality of feudal lords. "I have seen," says Boetius, "in the court at Bourges, before the metropolitan, an appeal by a certain parish priest, who pretended to claim the first night of young brides, according to the received usage. The demand was rejected with indignation, the custom unanimously proscribed, and the scandalous priest condemned to pay a fine."

"In a kingdom of Malabar," says J. Forbes, "the ecclesiastical power took precedence of the civil on this particular point, and the sovereign himself passed under the yoke. Like the other women, the queen had to submit to the right of prelibation exercised by the high priest, who had a right to the first three nights, and who was paid fifty pieces of gold besides for his trouble."[4] In Cambodia, according to an ancient Chinese traveller, religious prelibation was obligatory on all the young girls, and was performed every year with great ceremony. The parents who had daughters

[1] Bancroft, *Native Races*, etc., vol. i. p. 584.
[2] Marco Polo, *Edition Populaire*, p. 187.
[3] Laurière, *Glose du droit Français*, at the word Culage ou Culiage.
[4] James Forbes, *Oriental Memoirs*, vol. i. p. 446; vol. iv. 1813.

to marry made a declaration of it, and a public functionary fixed the day for the celebration of *Tchin-than*, or the legal and religious defloration. For this the intervention of a Buddhist priest, or a *tao-sse* priest, was indispensable. The parents entreated his service, which was very costly, and for this reason girls who were poor retained their virginity longer than the rich. It even sometimes happened that pious persons, moved by a sentiment of charity, took on themselves the payment of the costs of the ceremony for those who had been waiting a long time. Great display attended it. On the appointed day the officiating priest was carried in the evening with much pomp to the festive house, and the next morning he was reconducted home in a palanquin with parasol, drum, and music, and not without being offered fresh presents. A. de Rémusat has given, in Latin, some curious particulars of the intimate details of the ceremony, which I cannot relate here.[1]

These few examples suffice to show how very much morality is a relative thing, but they cannot serve as a basis to a general theory of hetaïrism.

The seignorial right of prelibation is simply an abuse of force and good pleasure; only, viewed in the light of our morality, it shocks us more than the others. One might justify it, however, by reasons which Bossuet considered sufficient to render slavery lawful. "The right of conquest has given, or still gives, all over the world, every sort of right over the vanquished, even the right of life and death. The conqueror, "in a just war," says the sage of Meaux, may legitimately kill the vanquished and, *a fortiori*, enslave him; and one may add, following out a logical conclusion, that it is lawful for him to dispose as he pleases of his wife and daughter. As a matter of course, the priest, in his quality of lord, can claim the same privileges as the layman; but besides this, if it should happen that his particular religion lends itself to the idea by being founded in some manner on the worship of the principle of procreation, as is so frequently the case with oriental religions, a sort of superstitious prestige will come to adorn and clothe this sacerdotal shamelessness.

In all this there is hardly any room for hetaïrism con-

[1] A. Rémusat, *Nouv. mél. Asiatiques*, t. 1er. p. 118.

sidered as a compensation to the community for damage to its ancient rights.

Admitting that the *jus primæ noctis* of relatives and friends does not imply simple polyandry, it may very naturally be explained by primitive laxity of morals. Among the greater number of peoples who are very slightly or not at all civilised, the women are free to give or sell themselves before marriage as they please, and as it does not entail any disgrace, they use the liberty largely. Besides, in many countries the husband had, or still has, over his wife or wives all the rights of a proprietor over the thing possessed. Now, considering he is a stranger to all modesty and sexual restraint, nothing seems more natural, if he has some instinct of sociability, than to lend his wife to his friends, just as he would do them an act of politeness, make them a present, or invite them to a feast, all without thinking any evil. This view of the practice is supported by many facts.

Doubtless it is the great sexual licence accorded to young girls in so many countries which has led many observers and travellers to conclude that promiscuity has been systematically established. In Australia the girls cohabit from the age of ten with young boys of fourteen or fifteen, without rebuke from any one, and there are even great sexual orgies in which the signal is given to the young people for liberty to unite freely in open day.[1]

In the greater number of savage countries these customs are common. At Nouka-Hiva, or more generally all over Polynesia, the young girls did not marry, that is to say, did not become the chattel of a man, before the age of nineteen or twenty, and until then they contracted a great number of capricious unions, which became lasting only in case of the birth of children.[2]

In all these islands, moreover, modesty was unknown, and the members of each family passed the night side by side on mats, and entirely naked. The place of honour, in the centre, was occupied by the master of the house, flanked by his wife or wives.[3]

[1] Eyre, *Discoveries*, vol. ii. p. 320.
[2] Porter, *Hist. Univ. des Voy.*, vol. xvi. p. 323.
[3] Cook, *First Voy.* (*Hist. Univ. des Voy.*, t. v. p. 252). Moerenhout, *Voy. aux iles du Grand Océan*, t. 1er. p. 263.

Analogous customs, extremely licentious in our eyes, but perfectly natural for primitive peoples, were in full force among all the indigenous races of America.

The Chinouk girls give or hire themselves out as they please. In the latter case the parents often take the payment.[1]

The Aymaras, who have no word for marriage, and who are such a simple folk that, in their opinion, any crime can be committed with impunity on Good Friday, since God is dead on that day, contract without scruple free unions merely for the duration of the evening of a feast. The contract is made in mimic language, and in settling it the man and woman exchange head-gear only.[2]

Similar manners prevail among the Esquimaux, the Kaffirs, and the Dyaks of Borneo. In Japan the parents willingly hire out their daughters, either to private individuals or to houses of prostitution, for a period of several years, and the girls are in no way dishonoured thereby. In Abyssinia, says Bruce, outside of the conjugal bond, which is easily tied or untied, the women dispose of their person as they please.

In primitive Rome, as with us, the young girl without dowry, the *indotata*, was held in moderate esteem; and therefore many young girls procured themselves a dowry by trafficking their persons. An old Latin proverb has handed down the souvenir of this ancient fashion of procuring a dowry: *Tusco more, tute tibi dotem quæris corpore.*[3]

Now, in all these customs, at once so simple and so gross, it is impossible to see the traces of an enforced hetaïrism, derived from an antique period of promiscuity, which was also equally obligatory. They are simply traits of animal laxity. Men were still almost devoid of moral training, and the care for decency and modesty was of the slightest.

If in a primitive country a certain amount of restraint is imposed on a woman who is married, or rather owned by a man, it is solely because she is considered as property, held by the same title as a field or a domestic animal. For her

[1] Bancroft, *Native Races*, etc.
[2] Wake, *Evolution of Morality*, vol. i. p. 219.
[3] Giraud Teulon, *Orig. de la Famille*, p. 83.

to dispose of her person without authorisation is often a capital crime; but the husband, on the contrary, has in many countries the undisputed right to lend, let out, or barter his wife or wives: *jus utendi et abutendi.* I will mention a few of these marital customs.

In America, from the land of the Esquimaux to Patagonia, the loan of the wife is not only lawful, but praiseworthy. Egidius says of the Esquimaux, "that those who lend their wives to their friends without the least hesitation are reputed in the tribe as having the best and noblest character."[1] The English traveller, Captain Ross, relates that one of the Esquimaux prowling around his ship was accompanied by the wives and children of one of his intimate friends, to whom he had, in the preceding autumn, confided, on his side, his own two wives. The exchange was to terminate at a fixed time, and the Esquimaux of whom Captain Ross speaks was very indignant with his friend because the latter, having forgotten himself while chasing the deer in distant regions, was not exact in keeping the engagement.[2]

On this point the Redskins are not more delicate than the Esquimaux. Thus the Natchez make no difficulty of lending their wives to their friends.[3] In New Mexico the Yuma husbands willingly hire out their wives and their slaves, without making any difference. And, besides, with them, as in many other countries, to furnish a guest with a temporary wife is simply one of the duties of hospitality.[4] The chiefs of the Noutka Columbians barter their wives among each other as a sign of friendship.[5] Nothing would be easier than to enumerate a great number of facts of the same kind observed in Australia, Africa, Polynesia, Mongolia, and almost everywhere. But it is more remarkable to meet with the same custom in a Mussulman country. Nevertheless, Burckhardt relates that the Merekedeh, a branch of the great tribe of Asyr, understood hospitality in this primitive manner. To every stranger received under

[1] *History of Greenland*, p. 142.
[2] Ross, *Hist. Univ. des Voy.*, t. xl. p. 158.
[3] *Lettres Edifiantes*, t. xx. p. 116.
[4] Bancroft, *Native Races*, etc., vol. i. p. 514.
[5] Meares, *Hist. Univ. des Voy.*, t. xiii. p. 375.

their tents or in their houses, they offered a woman of the family, and most often a wife of the host himself. The young girls alone were exempt from this strange service. It was considered the duty of the traveller to conform with a good grace to the custom, otherwise he was hooted and chased from the village or camp by the women and children. This extreme manner of understanding hospitality was very ancient and deeply rooted, and it was not without difficulty that the conquering Wahabites brought the Asyrs to renounce it.[1] But these customs were not specially confined to the Asyrs; they were in force throughout prehistoric Arabia. An old Arab writer, Ibn al Moghawir, mentions them. "Sometimes," he says, "the wife was actually placed at the disposition of the guest; at other times, the offer was only symbolic. The guests were invited to press the wife in their arms, and to give her kisses, but the poignard would have revenged any further liberties."[2] It is not very long since the same practice prevailed in Kordofan and Djebel-Taggale.[3] Certain traits of morals related by the Greco-Latin writers show that in Rome, and Greece also, if it was not the husband's duty to lend his wife to his friends, he had at least the right to do so. At Sparta, Lycurgus authorised husbands to be thus liberal with their wives whenever they judged their friends worthy of this honour. And, further, the public opinion of Sparta strongly approved the conduct of an aged husband who took care to procure for his wife a young, handsome, and virtuous substitute.[4]

The same customs prevailed at Athens, where Socrates, it is said, lent his wife Xantippe to his friend Alcibiades; and at Rome,[5] where the austere Cato the elder gave up his wife Marcia to his friend Hortensius, and afterwards took her back, much enriched, it is true, at the death of this friend.

All these facts relate, therefore, to a very widely-spread and almost universal custom, which is in perfect accord

[1] Burckhardt, *Hist. Univ. des Voy.*, t xxxii. p. 380.
[2] R. Smith, *Kinship*, etc., p. 276.
[3] *Les Abyssiniennes et les Femmes du Soudan Oriental*, p. 97.
[4] Plutarch, *Lycurgus.*
[5] *Ibid.*, *Cato.*

with the extremely low position that has been granted to women in the greater number of savage and barbarous societies. The married woman, being exactly assimilated to a slave or a thing possessed, might thenceforth be treated as such; and the right of property, soon becoming sacred, easily stood before any scruples of decency which were still rare and weak.

After the preceding investigation, there appears to be no difficulty in refuting the sociological theory, far too prevalent, according to which the entire human race has passed through a primitive period of promiscuity followed by hetaïrism. Our first ancestors, the precursors of man, were surely very analogous to the other primates. We may, therefore, conclude that, like them, they generally lived in polygamous families. When these almost human little groups were associated in hordes or tribes, it is quite possible that great laxity of morals may have prevailed amongst them, but not a legal or obligatory promiscuity. In a society sufficiently numerous and savage it is no easy task for a man to guard his feminine property, for the women are not by any means averse to adventures. Their modesty is still very slight, and before belonging specially to one man they have generally been given or sold to many others. At that period of the social evolution public opinion saw no harm in all this. And, besides, the husband or the proprietor of the woman considered her absolutely as his thing, and did not scruple to lend her to his friends, to barter her, or to hire her out.

These primitive customs, combined with polyandrous or collective marriage and the matriarchate, have deceived many observers, both ancient and modern.

When we come to scrutinise these facts, and to view them in the light of animal sociology, we arrive at the conclusion that human promiscuity can only have been rare and exceptional, and that the theory of the community of wives and of obligatory hetaïrism will not bear examination.

The procreative need is one of the most tyrannical, and primitive man has satisfied it as he best could, without the least delicate refinement; but the egotism of individuals has had for its result, from the origin of human societies, the formation of unions based on force, and, correlatively, a

right of property which fettered more or less rigorously the liberty of the women who were thus possessed.

These primitive unions were concluded according to the chance caprices or needs of extremely gross societies, who cared little to submit to a uniform conjugal type. There are some very singular ones among them, which differ essentially from the legal forms of marriage finally and very tardily adopted by the majority of mankind. It is these isolated conjugal unions, extravagant and immoral in our eyes, that we now have to consider.

CHAPTER IV.

SOME SINGULAR FORMS OF SEXUAL ASSOCIATION.

I. *Primitive Sexual Immorality.*—Origin of modesty—Absence of modesty in the savage—Loan of wives in Melanesia and among the Bochimans—Absence of modesty in the Esquimaux, the Redskins, and Polynesians—Right of the husband in Polynesia—Loan or barter of wives—Erotic training of little girls in Polynesia—Society of the Areoïs—Man in a state of nature—Unnatural love in New Caledonia, in the two Americas, among Asiatic peoples, and in Greco-Roman antiquity—The *erastes* of Crete.

II. *Some Strange Forms of Marriage.*—Coarseness of primitive marriage—Horror of incest artificially created—Incest among various peoples—Artificial defloration—Experimental marriages among the Redskins, the Otomies, the Sonthals, the Tartars, and in Ceylon—Temporary marriages among the Jews of Morocco and the Tapyres—Free unions—Partial marriages and marriages for a term among the Arabs—Marriage and the right of the strongest in savage countries—Savage coarseness and civilised depravity.

I. *Primitive Sexual Immorality.*

In a former work[1] I have attempted to trace the genesis of a sentiment peculiar to humanity—the sentiment of modesty. It would be inexpedient here to treat the subject afresh in detail, but I will recall the conclusions arrived at by that investigation. Modesty is *par excellence* a human sentiment, and is totally unknown to the animals, although the procreative need inspires them with desires and passions essentially identical with what in man we call love; it is therefore certainly an artificial sentiment, and comparative ethnology proves that it must have resulted from the

[1] *L'Évolution de la Morale.*

enforced chastity imposed on women under the most terrible penalties. In reality, primitive marriage hardly merits the name; it is simply the taking possession of one or several women by one man, who holds them by the same title as all other property, and who treats adultery, when unauthorised by himself, strictly as robbery. This ferocious restraint has resulted, especially in the woman, in the formation of particular mental impressions, corresponding psychically to the sentiment of modesty, and inducing a certain sexual reserve which has become instinctive. But this moral inhibition is still very weak in races of low development, and, taking the whole human species, it exists chiefly in the woman; it is a sexual peculiarity of character, and is of relatively recent origin.

If we keep well in mind these preliminary considerations, we shall not be much surprised at the forms of sexual association which we are about to consider, although they are singularly repulsive to our ideas of morality. We shall be still less surprised at them when we are acquainted with the extreme licence permitted in many savage and barbarous societies.

There is nothing more difficult for us to realise, civilised as we are, than the mental state of the man far behind us in cultivation as regards what we call *par excellence* "morality." It is not indecency; it is simply an animal absence of modesty. Acts which are undeniably quite natural, since they are the expression of a primordial need, essential to the duration of the species, but which a long ancestral and individual education has trained us to subject to a rigorous restraint, and to the accomplishment of which, consequently, we cannot help attaching a certain shame, do not in the least shock the still imperfect conscience of the primitive man. On this point facts are eloquent and abundant; I will quote a few of them.

In Tasmania it was thought an honour for women to prostitute themselves to Europeans, who were ennobled in the eyes of the natives by the prestige of their superiority.[1] The Australians, who were a little more developed than the Tasmanians, willingly lent or hired out their women—at least those that were their own property—to their friends.[2]

[1] Wake, vol. i. p. 77. [2] *Id.* vol. i. p. 71.

The women were not less bestial than their males. They often engaged, says Peltier, in furious combats, fighting with spears, for the possession of a man. This is a peculiar case, and is an entirely human instance of that *law of battle* of which I have spoken in regard to animals. Like the females of animals also the Australian women adored strength, and when the men of their own horde were beaten in battle they sometimes went over to the camp of the conquerors of their own accord (Mitchell).[1] In these facts there is nothing exceptional, and we may change the country without changing the customs. Thus the Bochimans treat their wives as simple domestic animals, and offer them willingly to strangers,[2] as do also the Australians.

In the Andaman Islands and elsewhere the women give themselves up before marriage—that is, before becoming the property of one man—to the most unbridled prostitution,[3] and yet the most innocent, according to the morality of the country.

Among the Esquimaux the laxity of sexual customs, both for men and women, is extreme. The husbands feel no shame in selling, or rather hiring out, their wives; and the latter, as soon as their proprietors are gone to the chase or to fish, abandon themselves to an uncontrolled debauch, taking care to post their children outside the hut to warn them in case of the unexpected return of the master.[4] Sexual morality does not yet exist among the Esquimaux, and an Aleout said quite simply to the missionary Langsdorff, "When my people couple they do it like the sea-otters."[5] In fact, if the cold permitted, the Esquimaux would not be any more clothed than the sea-otters. In their common houses, where two or three hundred people are crowded together, and a high degree of temperature is maintained, they throw off their clothing without distinction of age or sex.[6] They go further still, and, like many savages, practise what is called Socratic love openly and without shame. Thus, among the Inoits, well-favoured boys

[1] H. Spencer, *Sociology*, vol. ii. p. 213. [2] Wake, vol. i. p. 205.
[3] Giraud Teulon, *Orig. de la Famille*, p. 68.
[4] Parry (*Third Voyage*), *Hist. Univ. des Voyages*, t. xl. p. 456.
[5] Giraud Teulon, *loc. cit.*, p. 96.
[6] Élie Reclus, *Les Primitifs*, p. 70.

are brought up with care, dressed as girls, and sold at a high price towards the age of fifteen,[1] without any harm being seen in it.

The Redskins of the extreme north are scarcely more modest than the Esquimaux. Carver relates that among the Nandowessics a woman was particularly honoured because she had first entertained and then treated as husbands the forty chief warriors of the tribe.[2]

But it is especially in Polynesia that the naïve immodesty of primitive peoples was displayed with the greatest indifference to the opinions of others.

"The principal difficulty of the missionaries in the Sandwich Isles," says M. de Varigny, "consisted in teaching the women chastity; they were ignorant of the name and of the thing. Adultery, incest, and fornication were common things, approved by public opinion, and even consecrated by religion."[3]

These customs are of ancient date in Polynesia. The travellers of last century had observed them still the same. The Tahitian women, if they were free, openly bartered their persons, and the fathers, mothers, brothers, and sometimes the husbands, often brought them to the European sailors and hired them out, after a lively bargaining, for nails, red feathers, etc.[4]

At Noukahiva "the young girls of the island," says Porter, "are the wives of all those who can buy their favours, and a beautiful daughter is considered by her parents as a means of procuring them for a time riches and plenty. However, when they are older, they form more lasting connections, and seem then as firmly attached to their husbands as women of any other country."[5]

In the same archipelago, the surgeon Roblet says that the French sailors were frequently offered girls of eight years; "and," he adds, "they were not virgins."[6]

[1] Élie Reclus, *Les Primitifs*, p. 80.
[2] Carver, *Travels in North America*, p. 245.
[3] De Varigny, *Quatorze ans aux îles Sandwich*, p. 159.
[4] Wallis, *Hist. Univ. des Voy.*, t. xviii. p. 364.—Edwards, *ibid.* t. xiii. p. 426.
[5] Porter, *Hist. Univ. des Voy.*, t. xvi. p. 232.
[6] Marchand, *ibid.* t. xv. p. 406.—Moerenhout, *Voy. aux îles*, t. 1er. p. 313.

"Virtue," says Porter, "such as we understand it, was unknown among them, and they attached no shame to acts which they regarded not only as natural, but as an inoffensive amusement. Many parents thought themselves honoured by the preference given to their daughters, and showed their satisfaction by presents of pigs and fruits, which, on their part, was an extreme of munificence."[1]

In Polynesia public opinion forbade married women to yield themselves without the authorisation of their owners, and this was almost the only strict rule of morals existing; but the husbands trafficked in their wives without scruple. "Tawee," says Porter, "was one of the handsomest men of the island, and loved to adorn his person; a bit of red stuff, some morsels of glass, or a whale's tooth, had irresistible charms for him, and in order to procure these objects he would offer any of the most precious things he possessed. Thus, though his wife was of remarkable beauty, and he was the tenderest of husbands, Tawee offered his wife more than once for a necklace."[2]

To offer a woman to a visitor to whom one would do honour was, for that matter, a simple act of courtesy in Polynesia, and the same courtesy prescribed the immediate acceptance of the offer, *coram populo* (Bougainville). It was frequently his own wife that the husband thus gave up to his guest, and the case of Porter, which I have just quoted, had nothing exceptional in it. A similar thing happened to Captain Beechey,[3] and to many other travellers. This conjugal liberality was one of the customs of the country; the friend, or *tayo*, acquired conjugal rights over the wife or wives of his friend. Between brothers and relations the exchange of wives was frequent,[4] to such a degree that at Toubouai, etc., Moerenhout tells us the women were nearly held in common, and that in the Marquesas a woman had sometimes as many as twenty lovers.[5]

For the Polynesians the pleasures of sensual love were the chief business of life; they neither saw evil nor practised

[1] Porter, *Hist. Univ. des Voy.*, t. xvi. p. 229.
[2] *Id.*, *loc. cit.*, t. xvi. p. 245.
[3] *Ibid.* t. xix. p. 213.
[4] Wake, *Evolution of Morality*, vol. i. p. 79.
[5] Moerenhout, *Voy. aux Iles*, etc., t. ii. p. 56.

restraint in them. The women were trained with a view to amorous sports;[1] they were fattened on a soup of bread fruit, and from earliest infancy taught by their mothers to dance the *timorodie*, a very lewd dance, accompanied by appropriate words.[2] The conversation also was in keeping with the morals. "One thing which particularly struck me," says Moerenhout, "as soon as I began to understand their language, was the extreme licence in conversation—a licence pushed to the limit of most shameless cynicism, and which is the same even with the women; for these people think and talk of nothing but sensual pleasure, and speak openly of everything, having no idea of the euphemisms of our civilised societies, where we use double meanings and veiled words, or terms that are permitted in mentioning things which would appear revolting and cause scandal if plainly expressed; but these islanders could not understand this, and the missionaries have never been able to make them do so."[3]

Lastly, the existence of the religious and aristocratic society of the *Areoïs*, in Tahiti and other archipelagoes, finishes the picture of the mental condition of the Polynesians as regards morals. Without describing afresh this curious association, I shall only remind my readers that it had for its object an unrestrained and public abandonment to amorous pleasures, and that, for this reason, the community of women and the obligation of infanticide were decreed.

During the last century sentimentality invaded the brains of thinkers and writers like an epidemic, and gave rise to the belief that primitive man, or "man in a state of nature," as the phrase went, was the model of all virtues. But we must discount much of this. As we might naturally expect, the uncultivated man is a mammal of the grossest kind. We have already seen that his sexual morality is extremely loose, and necessarily so; we are, however, surprised to find him addicted to certain aberrations from nature which the chroniclers of the Greco-Latin world have accustomed us to regard as the result of a refined and depraved civilisation,—

[1] Moerenhout, *Voy. aux îles*, etc, t. 1er. p. 206.
[2] Cook, *Hist. Univ. des Voy.*, t. v. p. 268,
[3] Moerenhout, *loc. cit.*, t. 1er. p. 229.

an opinion which is quite erroneous, as comparative ethnography irrefutably proves. Nothing is more common among primitive races than what is called Socratic love, and on this point I will briefly quote a few facts, without pausing longer on them than my subject requires. In the vast sociological investigation which I am undertaking, moral bestiality must not discourage scientific analysis any more than putrefaction arrests the scalpel of the anatomist; it does not therefore follow that we take delight in it.

As a matter of fact, many human races have practised, from the first, vices contrary to nature. The Kanaks of New Caledonia frequently assemble at night in a cabin to give themselves up to this kind of debauchery.[1] The New Zealanders practised it even among their women.[2] It was also a widely-spread custom throughout Polynesia, and even a special deity presided over it. In the whole of America, from north to south, similar customs have existed or still exist. We have previously seen that the Esquimaux reared young boys for this purpose. The Southern Californians did the same, and the Spanish missionaries, on their arrival in the country, found men dressed as women and assuming their part. They were trained to this from youth, and often publicly married to the chiefs.[3] Nero was evidently a mere plagiarist. The existence of analogous customs has been proved amongst the Guyacurus of La Plata, the natives of the Isthmus of Darien, the tribes of Louisiana, and the ancient Illinois, etc.[4]

The two chief forms of sexual excess of which I have been speaking, unnatural vice and the debauchery of girls or free women, are habitual in savage countries; and later, when civilisation and morality have evolved, the same inveterate inclinations still persist for a long time, in spite of public opinion and even of legal repression.

The Incas, according to the chronicler Garcilaso, were merciless in regard to these sexual aberrations, and the

[1] Bourgarel, *Des Races de l'Océanie française*, in *Mém. Soc. d'Anthropologie*, t. ii. p. 390.—De Rochas, *Nouvelle Calédonie*, p. 235.

[2] Moerenhout, *Voy. aux. îles*, etc., t. ii. p. 167. — Marion, *Hist. Univ. des Voy.*, t. iii. p. 487.

[3] Wake, *Evolution of Morality*, vol. i. p. 241.

[4] Peschel, *Races of Man*, p. 408.

Mexican law was equally severe, but all without much effect, if we may believe the accounts of Garcilaso himself, Gomara, Bernal Diaz, etc. I have elsewhere related how the ancient legislations of the great Asiatic states repressed these base aberrations of the procreative sense, and nevertheless, at the present day, the Arabs frequently give way to them, even in the holy Mosque at Mecca;[1] and other Eastern peoples, Hindoos, Persians, and Chinese, are also very imperfectly reformed on this point.

When we remember that morality is essentially relative, and that ancestral impressions are extremely tenacious in the human brain, we shall not be much surprised to see these low tendencies persist as survivals in the midst of civilisations already far advanced. Nevertheless, the theoretic morality of all the great nations of the East has for centuries condemned these repugnant excesses, which our European ancestors, both Celts and Teutons, have early reproved and repressed. It is all the more singular to find the most intelligent race of antiquity, the ancient Greeks, practising the greatest tolerance on this subject, so much so that the names of Socrates and Plato, those fathers of ethereal spiritualism, are attached to amours the mere thought of which now excites disgust in a civilised European.

A very slight acquaintance with Greco-Roman literature furnishes abundant information on this matter. I have no need, therefore, to dwell on it, but I must quote a curious passage of Strabo, from which we learn that the ancient Cretans associated with so-called Socratic amours the ceremonial of marriage by capture, of which I shall soon have to speak. This strange passage is as follows:—"It is not by persuasion, but by capture, that they obtain possession of the beloved object. Three days or more in advance the *erastes* apprises the friends of the young boy of his project of abduction. It would be considered the greatest disgrace for them to conceal the child, or prevent him from passing by the road indicated. By so doing they would appear to confess that he did not merit the favours of such a distinguished *erastes*. What do they do therefore? They meet together, and if the ravisher is equal or superior in

[1] Burckhardt. *Hist. Univ. des Voy.*, t. xxxii. p. 155.

rank and all other respects to the family of the child, they are content in their pursuit to comply with the idea of the law, and to make a semblance of attack only, allowing the child to be carried off, and even testifying their satisfaction; but if, on the contrary, the ravisher should be of greatly inferior rank, they invariably rescue the child from his hands. In any case the pursuit comes to an end when the child has crossed the threshold of the *andrion* of his captor." We may doubtless presume, from this passage, that the ancient Cretans were no longer in the state of bestial coarseness of the New Caledonians. With them the capture was a symbol or comedy. It was a mark of esteem, paid less to the beauty of the child than to his valour and propriety of manners. In fact, the boy had the legal right to revenge himself, if he had suffered any violence in his capture; and in restoring him to liberty his ravisher loaded him with presents, some of which were obligatory and legal, namely, a warrior's cloak, an ox, and a goblet; it was a kind of initiation in virility, and it was considered a disgrace for a young boy not to obtain an *erastes*.[1]

But even if we admit that all the ceremonial of this singular platonic marriage among the Cretans was perfectly innocent, it arose, none the less, from a moral laxity, plainly showing that ancient morals were gross in the extreme.

I here conclude my enumeration. Short as it has been, for I have purposely limited my facts to a small number, it is sufficient to prove that for an immense period man has been a very coarse animal. We may, therefore, expect to find him adapting without scruple forms of marriage or sexual association quite unusual among Europeans, and which it now remains for me to describe briefly.

II. *Some Strange Forms of Marriage.*

In savage societies, where no delicacy yet exists in regard to sexual union, and where, on the other hand, woman is strictly assimilated to things and domestic animals, marriage, or what we please to call so, is an affair of small

[1] Strabo, x. 21.

importance, which is regulated according to individual caprice. More generally the parents, and sometimes the friends or the chiefs, pair the young people as they think fit, and quite naturally they have little regard for monogamic marriage, to the strictness of which, even in civilised societies, man finds it so difficult to bend.

The young people, on their part, have hardly any individual preferences. The young boys of the Redskins, as Lafitau tells us, never even troubled to see, before marriage, the wife chosen for them by their parents.[1] In Bargo, according to R. and J. Lander, they marry with perfect indifference; "a man does not care any more about choosing a wife than about which ear of corn he shall pick." There is never any question as to the sentiments of the contracting parties.[2]

It is quite certain, also, that during the first ages of the evolution of societies, the ties of kinship, even those we are accustomed to regard as sacred, and respect for which seems to be incarnate in us, have not been any impediment to sexual unions. Like the sentiment of modesty, the horror of incest has only been engraved on the human conscience with great difficulty and by long culture. Scruples of this kind are unknown to the animal, and before they could arise in the human brain it was first necessary that the family should be constituted, and then that, from some motive or other, the custom of exogamous marriage should be adopted. Now, as we shall see later, the family has at first been matriarchal or rather maternal, and with such a familial system, the children have no legal father; the prohibitions relative to incest could therefore, at the most, only exist in regard to the female line, and, in fact, we find it to be so in many countries where this system of filiation prevails. But primitive morals, existing before the formation of a morality condemning incest, have left many traces in the past, and even in the present. "The Chippeways," says Hearne, "frequently cohabit with their mother, and oftener still with their sisters and daughters."[3] And yet he is speaking here of Redskins, a people reputed to be

[1] Démeunier, *Esprit des Différents Peuples*, t. 1er. p. 153.
[2] *Hist. Univ. des Voy.*, t. xxx. p. 94.
[3] H. Spencer, *Sociology*, vol. ii. p. 218.

fanatical on the matter of exogamy. Langsdorff says the same of the Kadiaks, who unite indiscriminately, brothers with sisters, and parents with children.[1] It is well known, besides, that in the matter of sexual unions no race has fewer prejudices than the Esquimaux. The Coucous of Chili, and the Caribs also, willingly married at the same time a mother and daughter. With the Karens, too, of Tenasserim, marriages between brother and sister, or father and daughter, are frequent enough, even in our own day.[2]

But these unions, though incestuous for us, have not been practised amongst savages and inferior races only. According to Strabo, the ancient Irish married, without distinction, their mothers and sisters.[3]

We are told by Justin and Tertullian[4] that the Parthians and Persians married their own mothers without scruple. In ancient Persia, religion went so far even as to sanctify the union of a son with his mother.[5] Priscus relates that these marriages were also permitted among the Tartars and Scythians, and it is reported, too, that Attila married his daughter Esca.[6]

Whether from a survival of ancient morals, or the care to preserve purity of race, conjugal unions between brother and sister were authorised, or even prescribed, in various countries, for the royal families. The kings of ancient Egypt were obliged to marry their sisters, and Cleopatra thus became the wife of her brother Ptolemy Dionysius. The Incas of Peru were subject to a similar law; and at Siam also, when the traveller La Loubère visited it, the king had married his sister.[7] But I shall have to return to the subject of marriage between relations in treating of the endogamic *régime* which has been, or is, in force among many peoples.

These incestuous marriages astonish us, and certain of them are even revolting to our ideas, as, for example, the union of the mother with the son. Another custom

[1] Langsdorff, *Voyages*, t. ii. p. 64.
[2] Heber, quoted by H. Spencer, *Sociology*, vol. ii. p. 248.
[3] *Geography*, Lib. iv. par. 4.
[4] Justin, *Agatha*, vol. ii. Tertullian, in *Apologet.*
[5] A. Hovelacque, *L'Avesta*, pp. 465, 466.
[6] Démeunier, t. 1er. pp. 465, 466. [7] *Ibid.* p. 166.

will probably surprise, if not shock us quite as much. I allude to experimental marriages, which are far from being rare. They will appear, however, less singular, if we remember that in societies of low order little value is set on the chastity of young girls; virginal purity is not at all prized, and there are even some peoples, as the Saccalaves of Madagascar,[1] for instance, and also certain indigenous peoples of India,[2] among whom it is regarded as a duty for the mothers themselves to deflour their daughters before marrying them.

With such morals prevailing, experimental marriages seem natural enough. De Champlain, an ancient French traveller in North America, relates that the Redskins of Canada always lived a few days together, and then quitted each other if the trial had not been satisfactory to either of them.[3]

A Spanish chronicler, Herrara, reports that the Otomies of Mexico spent a night of trial with the woman that they desired to marry; they could quit her afterwards, but only on condition of not retaining her during the following day.[4]

Among the Sonthals also, an aboriginal tribe of India, whose marriages are celebrated simultaneously once a year, the candidates for marriage must first live six days together, and it is only after this trial that it is lawful for them to marry.[5] With certain Tartar tribes of Russia in Europe and of Siberia there existed an institution of experimental marriages lasting for a year, if the woman did not become a mother during that period.[6] In the island of Ceylon, according to Davy, there are also provisional marriages, confirmed or annulled at the end of a fortnight.[7]

Among the Jews in Morocco the Rabbis consecrate temporary marriages, for three or six months, according to agreement. The man only engages to acknowledge the child if needful, and to make a certain donation to the mother.[8]

[1] Noël, *Bull. de la Soc. de Géog.*, Paris, 1843.
[2] Collection Ramusio, t. 1er. libro di Odoardo Barbosa, portoghese.
[3] Démeunier, t. 1er. p. 155. [4] *Ibid.*
[5] *The People of India*, vol. i. p. 2.
[6] *Travels through the Russian Empire and Tartary*, by D. J. Cook, vol. i. [7] Davy, *Ceylon*, p. 286.
[8] Dr. Desugis, *Bull. de la Soc. de Géog.*, Paris.

Strabo tells us of an analogous custom prevailing in antiquity among the Tapyres (Parthians), according to which a woman, after having had two or three children by a man, was forced by law to change her husband.[1] This is almost exactly what Marshal Saxe demanded for French-women in the last century.

We must not confound these experimental marriages, which are regulated, and in some sort legal, with free and easily cancelled unions still more common, as, for example, those of the Nouka-Hivians, that are broken at will, provided there are no children;[2] those of the Hottentots;[3] those of the Abyssinians, who marry, part, and re-marry at will.[4] These last unions, founded merely on individual caprice, have nothing extraordinary about them, and we know that they are not rare in civilised countries.

Much more curious, from a point of view of sexual and conjugal morality, are the partial marriages, which only bind the parties for certain days of the week. This is a rare kind of marriage that seems improbable to us, yet it has been proved to have existed among the Hassinyehs of the White Nile, of Arab or perhaps Berber race.

By an agreement, which is sharply discussed beforehand, the Hassinyeh woman engages to be a faithful wife for a fixed number of days in the week, generally three or four, but this is in proportion to the number of heads of cattle given to the parents by the bridegroom as the price of their daughter, and it is the mother herself who makes the bargain. Naturally, on the days that are not reserved the woman is free, and she has a right to use her liberty as she pleases.[5]

These strange customs amongst the Arabs must surely date from old pre-Islamite ages, and we may class them with other antique customs, as, for example, marriage for a term, called *mot' a* marriage, which was in use with the Arabs until the time of Mahomet, and which doubtless they imported later into Persia, where it exists in our own day.

[1] Strabo, vol. ii. p. 514.
[2] Porter, *Hist. Univ. des Voy.*, t. xvi. p. 323.
[3] Levaillant, *ibid.* t. xxi. p. 164.
[4] Bruce, *Travels*, vol. ix. p. 187; vol. v. p. 1.
[5] Ausland, Jan. 1867, p. 114.

And again, in the kingdom of Omân, in the fourteenth century, the Sultan could still grant to a woman, indeed to any woman he pleased, the permission to have lovers according to her fancy, and her relations had no right to interfere.[1]

The partial marriage of the Hassinyeh Arabs is therefore not so surprising as it seems at first sight when isolated from other practices of the same kind. And it must be confessed that, immoral as it may appear to us, it is superior to the other modes of primitive conjugal association in use among the greater number of savage peoples. Doubtless it denotes an extreme of moral grossness, but at the same time it shows a certain respect for feminine independence, contrasting strongly with the animal subjection imposed on women in the greater number of societies of little or no civilisation. The situation of the woman who is owned and treated as a simple domestic animal, hired out or lent to strangers or to friends, according to the caprice of her master, but not allowed, at the peril of her life, to be unfaithful to her owner without his leave, is surely far more abject still.

I shall not dwell any more on these mere sketches of marriage, free and transient unions broken as soon as made, experimental marriages, three-quarter marriages, and marriages for a term, all of which show the very slight importance attached to sexual union by man in a low stage of development. And yet we must not refuse the name of marriage to these ephemeral and incomplete unions, since they are arranged by means of serious contracts which have been well discussed beforehand, and by agreements entered into at least between the husband and the relatives of the wife. The men of the horde or tribe do not, however, profess a very strict respect for these marriages; the husband is often uneasy in the enjoyment of his feminine property, and although legally obtained, he must always be ready to defend it.

Among the Bochimans, says Liechtenstein, with whom marriage is reduced to its most simple expression, "the strongest man often carries off the wife of the weakest,"

[1] Ibn Batûta, vol. ii. p. 230 (quoted by R. Smith in *Kinship and Marriage in Early Arabia*).

because it is the proper thing for him to do, since he is called "the lion."

In fact, these abuses of strength exist, more or less, in all countries and all races; but among the Redskins of America and the Esquimaux it seems that public opinion ratifies them, and that might has morally become right.

"When a Toski," says Hooper, "desires the wife of another man, he simply fights with her husband."

"A very ancient custom," says Hearne, "obliges the men to wrestle for any woman to whom they are attached; and of course the strongest party always carries off the prize. A weak man, unless he be a good hunter and well beloved, is seldom permitted to keep a wife that a stronger man thinks worth his notice. This custom prevails throughout all the tribes."[1]

In the same way, among the Copper and Chippeway Indians woman is a property which is little respected, and which the strong may always take from the weak.[2]

Richardson also says that among the Redskins every man has the right to challenge another to fight, and if he is victor, to carry off his wife.[3]

The same customs prevail among the Indians of South America—at least among certain of them. Thus Azara relates that the Guanas never marry before they are over twenty, for earlier than this they would be beaten by their rivals.[4]

It has been attempted to show that these conflicts are the equivalent of what is called in regard to animals "the law of battle," but the comparison is not exact, for animals seem in this respect much more delicate than men. If they fight it is before pairing, and besides, as we have seen, their combats are often courteous, like the tournaments of our ancestors; frequently, too, the object of these assaults is much less to capture the female than to seduce her by displaying before her eyes the qualities with which they are endowed—courage, force, address, and beauty. On her part, the female for whom they are competing is so little

[1] Hearne, *A Journey from Prince of Wales Fort*, p. 104 (1796).
[2] Franklin, *Journey to the Shores of the Polar Sea*, vol. viii. p. 43.
[3] Richardson, *Boat Journey*, vol. ii. p. 21.
[4] Darwin, *Descent of Man*, p. 614.

alarmed at their violence that, in general, she tranquilly looks on at the duels, and afterwards gives herself, one may say, freely to the victor. With certain species of birds a lyric tourney is substituted for the fight, and so ardently do the birds engage in it that a competitor will often die of exhaustion.

Lastly, when the tourney is over, the couples paired, and the marriage concluded, all rivalry ceases, the newly-mated birds isolate themselves more or less, and devote all their energies to the production of a family. Now these are delicate refinements unknown to primitive man, whose rivalries on the subject of the possession of women resemble far more the struggles of the old males with the young in the hordes of the gorillas or chimpanzees. We are forced to acknowledge that the sexual morality of primitive man does not much differ from that of anthropoid apes, and it is quite a stranger to the æsthetic and poetic refinements of certain birds.

I here end my short inquiry into the morals of primitive man and the eccentric modes of conjugal union which have preceded the institution of a more durable, exclusive, and solemn marriage.

We are filled with astonishment when we find such complete animal laxity in our undeveloped ancestors, and we can hardly understand the total absence of scruples which are now profoundly incarnate in us.

Those anthropologists who insist on making man a being apart in the universe shut their eyes to these gross aberrations. Evolutionists are not so timid, and do not fear to face the truth.

If, as it is impossible to deny, man is subject to the laws of evolution like all other beings, we are forced to admit that he must have passed through very inferior phases of physical and moral development. *Homo sapiens* surely descends from an ancient pithecoid ancestor, and this original blot has necessarily been a drawback to his moral evolution.

But here it is important to make a distinction. The resemblance between the moral coarseness of the savage and the depravation of the civilised man is quite superficial. Who thinks of being shocked at the morals of

animals? Now those of primitive man are quite as innocent, and the brutality of the savage has nothing in common with the moral retrogression of the civilised man struck with decay.

How unlike is the Aleout, imitating the sea-otter, without thinking any evil, to the European degraded by the vices of our civilisation! For the latter the future is closed; there are some declivities that can never be remounted. The posterity of the savage, on the contrary, may, with the aid of time and culture, attain to great moral elevation, for there are vital forces within him which are fresh and intact. The primitive man is still young, and he possesses many latent energies susceptible of development. In short, the savage is a child, while the civilised man, whose moral nature is corrupt, presents to us rather the picture of decrepid old age.

CHAPTER V.

POLYANDRY.

I. *Sexual Proportion of Births: its Influence on Marriage.*—Sexual proportion amongst animals—The state of this in Europe—Its variations according to race and profession—Its oscillations—Proportion of the sexes disturbed by war, by infanticide, and by the sale of daughters—Polyandry has not been general.

II. *Ethnography of Polyandry.*—Examples of polyandry—Great polyandrous centres—The polyandry of Thibet—The polyandry of the Naïrs.

III. *Polyandry in Ancient Arabia.*—Its causes—Infanticide in Arabia—The legend of Caïs, the infanticide—Evolution of polyandry in Arabia—*Mot' a* marriage—*Ba'al* marriage.

IV. *Polyandry in General.*—Matriarchal polyandry and patriarchal polyandry.

I. *Sexual Proportion of Births, and its Influence on Marriage.*

With the exception of the rare and singular forms of sexual or conjugal association which we have just passed in review, matrimonial types are not numerous among the peoples more or less civilised who have already instituted a marriage—that is to say, a sexual association regulated by generally admitted convention. The forms of marriage most universally practised, those which the majority of mankind has reached and stopped at, are polygamy and monogamy, or monandry. I shall have much to say of these. For the moment I shall treat of another kind of marriage, far less widely spread without doubt, but which, however, exists or has existed at divers points of the globe; I allude to polyandry.

I have no longer to prove that morality is variable and

perfectible, that it results from social life, and is only to be taken together with the other needs, desires, and necessities of the struggle for existence. Our moral sentiments are simply habits incarnate in our brain, or instincts artificially created; and thus an act reputed culpable at Paris or at London may be and frequently is held innocent at Calcutta or at Pekin. In order to judge impartially of polyandric marriage we must remember these elementary truths. Not, certainly, that polyandry is rare amongst us, but it is censured, counted as criminal, and obliged to hide itself. The legal and regulated possession, publicly acknowledged, of one woman by several men, who are all husbands by the same title, shocks our feelings and morality extremely in the present day.

Nevertheless, human societies, small or large, must and will live, and it is an imperious condition which imposes the polyandric *régime*, namely, a considerable inequality between the number of men and that of women. Now, this disproportion may result from divers causes. In the first place, it may be natural, as it is among certain animal species. Among the lepidoptera, for example, nine hundred and thirty-four males have been counted as against seven hundred and sixty-one females.[1] Although smaller, the disproportion is not less real amongst mankind. As a general rule, and in nearly all countries where it has been possible to ascertain it, the relation between masculine and feminine births gives a certain excess of boys. This relation has been found in Europe to be 106 for 70 million of births; but our great masculine mortality re-establishes the equilibrium in the early years of life. The proportion of births, besides, is far from being identical in all the countries of Europe, and we even find oscillations in a given country. In England it is generally 104.5, in France 106.3, in Russia 108.9, at Philadelphia 110.5. In certain ethnic or social categories the proportion of masculine births notably augments. It rises to 113 for the Jews of Russia, to 114 for those of Breslau, to 120 for the Jews of Livonia. More singular still, the proportion of masculine to feminine births augments for certain professions; it is, for example, higher amongst the

[1] Darwin, *Descent of Man*, p. 278.

English clergy.[1] It is even seen to vary spontaneously. In the year 1886, during several months, the proportion of feminine births rose at Paris. In France, for a period of forty-four years, it has happened five times in one department, and six times in another, that the female births have been in excess. At the Cape of Good Hope, among the whites, for several years there have been ninety to ninety-nine masculine births. The reason or reasons of these spontaneous oscillations in the proportion of the sexes still escapes us. We verify it only, and we are warranted in concluding that the production of sex in the embryo depends on some relatively second causes. It is sure, for example, that the clergy of England are not of a special race. If, however, they have more male children than the other inhabitants of England, the fact can only depend on intimate particulars of their kind of life. This reminds us of certain biblical precepts relative to conjugal life, and the too neglected theory of M. Thury (of Geneva) on the influence of the degree of ovular maturity on the production of the sexes.

But spontaneous oscillations in the proportion of the sexes are always feeble; even the matrimonial type does not seem to influence them, for in the harems of Siam the sexual relation of births is the same as in Europe.[2] On the other hand, it is proved that race-horses, which are very polygamous, since they serve as stallions, have male and female descendants in exactly equal proportions.[3]

It is the social actions of men which produce the most profound disturbances in the proportion of the sexes. To begin with, in savage or barbarous countries, where violent death has become an ordinary occurrence for men, the number of adult females much exceeds that of adult males. Thus, at Bantou, when the Dutch established themselves there, they found ten women to one man.[4] In La Soñora, at the end of a civil war, there were seven women to one man. In spite of all moral and legal precepts, such conditions unfailingly result in polygamy, disguised or not.

On the contrary, a custom very widely spread in savage

[1] A. Bertillon. [2] Darwin, *Descent of Man*, p. 270. [3] *Id.*, *ibid.*
[4] Houzeau, *Facultés mentales des animaux*, t. 1er. p. 282.

countries, that of the infanticide of girls, not less necessarily engenders polyandry, if the equilibrium in the numerical proportion of the sexes is not re-established in another manner. In reality, the infanticide of girls has been largely practised in nearly all polyandrous countries. It seems also that the custom of sacrificing the female children influences in the long run the natural production of the sexes. Thus the polyandrous Todas, who *formerly* killed their girls, have actually a sexual proportion of 133.3 for adults, and of 124 for the children.[1]

In Polynesia, where the infanticide of girls was so largely practised, the sexual relation to-day is altogether in favour of male births.

In New Zealand the proportion of the sexes in 1858 was 130.3 for adults, and 122.2 for non-adults.[2]

In 1839, in the Sandwich Islands, the numerical proportion was 125.08 for adults, and 125.75 for non-adults.

In 1872 a general census of all the Sandwich Islands gave for the numerical proportion of the sexes 125.36.

But there is more than one way of falsifying the proportion of the sexes. It is not necessary to kill nearly all the female children, as was the custom among the Gonds of Bengal, where in many villages Macpherson did not see a single girl;[3] it suffices to sell them. It is even the sale of girls which in many countries has at first restrained the savage practice of feminine infanticide. Girls became a merchandise negotiated by the parents, and afterwards redeemed by the men, because they could not do without them; but then it happened, in various countries and among various races, that men joined together to lighten the expense, and that several of them contented themselves with one wife in common, became polyandrous.

But we must not believe, with certain sociologists, that polyandry has ever been a universal and necessary matrimonial phase. The enormous consumption of men, necessitated by a savage or barbarous life, has often given an impulse to polygamy. It is only in certain societies where the practice of female infanticide exceeded all measure, or in certain islands, or certain regions with little or no

[1] Darwin, *Descent of Man*, p. 270. [2] *Id.*, *ibid.* p. 282.
[3] Dalton, *Ethn. Bengal*, p. 289

population, where conquerors badly off for wives came to settle, that polyandry has become general and enduring. It is surely only an exceptional form of marriage, and we can enumerate the countries where it has been or is still in use.

II. *Ethnography of Polyandry.*

Cæsar speaks thus of the polyandry of the ancient Britons:—"By tens and twelves the husbands have their wives in common, especially brothers with brothers, and parents with children."[1]

I have previously quoted Strabo on the polyandry of the primitive Arabs, which was also fraternal.

In the sixteenth century the Guanches of two of the Canary Isles, Lancerote and Tortaventura, were still polyandrous, but amongst them the husbands did not number more than three.[2]

Polyandry also existed in New Zealand and in the Marquesas, but restricted to certain women only.[3]

In America, amongst the Avaroes and the Maypures, according to Humboldt, brothers had often only one wife.

But the great polyandric centres exist or have existed in Asia, in India, Ceylon, and Thibet. Various aboriginal tribes of India, nearly always much addicted to female infanticide, have practised polyandry. The Miris and Dophlas of Bengal are still polyandrous.[4] Among the Todas of Nilgherry polyandry was fraternal. When a man married a girl, she became on that account the wife of all his brothers, and inversely these became the husbands of all the sisters of the wife. The first child born of these marriages was attributed to the eldest brother, the second to the next brother, and so forth.[5]

But polyandry has not flourished only among the primitive races of India. The Hindoo populations had also adopted it, and traces of it are found in their sacred

[1] *De bello Gallico*, v. p. 14.
[2] Berthelot, *Mém. Soc. Ethn.*, pp. 121, 125, 155, 186, 210.
[3] Radiguet, *Derniers Sauvages*, p. 180.
[4] Dalton, *loc. cit.*, pp. 33-36.
[5] Schortt, *Trans. Ethno. Soc.* (New Series), vol. viii. p. 240.

literature. Thus in the Mahabharata the five Pandou brothers marry all together the charming Drâaupadi, with eyes of lotus blue.[1] But in Brahmanic India polyandry is more than a mere memory. Skinner has proved that near the sources of the Djemmah, amongst a very fine race of Hindoo mountaineers, fraternal polyandry still prevailed. "Having asked one of these women," says the traveller, "how many husbands she had—'Only four,' she replied. 'And all living?' 'Why not?'"

These customs, according to the traveller, did not hinder these mountaineers from being, on other points, very moral men. Thus they held lying in horror, and in their eyes to deviate from the truth, even quite innocently, was almost a sacrilege.[2]

At the other extremity of India, in Ceylon, the polyandric *régime* is still very flourishing, especially in the interior of the island, and among the leisured classes. The number of husbands, generally brothers or relatives, is variable; it varies from three to eight. According to Emerson Tennent, polyandry was formerly general in the island, and it is owing to the efforts of the Dutch and Portuguese that it has disappeared from the coast.[3]

It is particularly in lamaic Thibet that the polyandric *régime* is in full vigour; and in this country religion strengthens it, for the most distinguished men, the ruling classes, the chiefs or officers of the State, *a fortiori* the lamas, have the same disdain for marriage so loudly professed by the saints of Catholicism. The greater number exempt themselves from it, and leave to the common people the gross care of producing children. Now, the latter, by reason of their poverty, associate together to lighten the burden of the family. It is, again, fraternal polyandry which is the rule in Thibet. It is in this country that sociologists have sought the classic type of this kind of polyandry.

In Thibet the right of primogeniture is combined with the right of marriage, and the younger brothers follow the fate of their chief. It is this last who marries for all of

[1] *Mahabharata*, trad. Fauche, t. ii. p. 148.
[2] *Hist. Univ. des Voy.*, vol. xxxi. pp. 458-468.
[3] Davy, *Ceylon*, p. 286.—O. Sachot, *L'île de Ceylon*, p. 25.

them, and chooses the common wife.[1] However, if we may believe other accounts, a certain liberty is allowed to younger brothers. The pressure on them is chiefly economic. When the eldest son marries, the property is transmitted to him in advance of his inheritance, with the charge of maintaining his parents, who, however, can live in a separate house. The youngest brother takes orders, and becomes a lama. The others, if they choose, become inferior husbands of the wife, who with us would be their sister-in-law, and they are almost forced to do this, since their eldest brother is sole inheritor. Once within the polyandric *régime*, the younger brothers have a subordinate position. The eldest, the husband-in-chief, considers them as his servants, and has even the right to send them away without any resource, if he pleases. If the principal husband dies, then his widow, his property, and his authority pass to the younger brother next in age. In the case of the brother not being one of the co-husbands, he cannot inherit the property without the wife, nor the wife without the property. We have here, then, a sort of polyandrian levirate.[2]

The children springing from these unions give the name of father sometimes to the eldest of the husbands, and sometimes to all.[3] Travellers tell us that these polyandrous households are not more troubled than our monogamous ones. Some Thibetans, living thus in conjugal association, could not understand V. Jacquemont when he asked them if the preference of their single wife for one or other of them did not cause quarrels between the husbands. But if jealousy is unknown to the husbands, it is, on the contrary, frequent with the wife. "A Thibetan woman," says Turner, "united to several husbands, is as jealous of her conjugal rights as an Indian despot could be of the beauties who people his zenana or harem."[4]

As to the manner in which the intimate relations between

[1] Turner, *Thibet*, p. 348, and *Hist. Univ. des. Voy.*, vol. xxxi. p. 434.

[2] Moorcroft and Trebeck's *Travels*, vol. i. p. 320.

[3] Rousselet, *Ethnographie de l'Himalaya occidental*, in *Revue d'anthrop.*, 1878.

[4] Turner, *Hist. Univ. des Voy.*, vol. xxxi. p. 434.

husbands and wife are regulated in the polyandric households of Thibet, we have scarcely any information. Among the Todas the wife never had conjugal commerce with more than one husband at a time, but she changed every month; sometimes also the associated husbands add to their number temporarily some young man belonging to the tribe, but not yet engaged in the bonds of wedlock.[1]

There is another form of polyandry besides the fraternal, but quite as curious, and which has been made to play a great *rôle* in various sociological theories. It is the polyandry of the Naïrs, an indigenous high caste of Malabar.

However extraordinary the fraternal polyandry called Thibetan may seem in our eyes, that of the Naïrs of Malabar is far more so. Here the reality exceeds all that we could have imagined in the way of conjugal customs. The Naïr parents married their daughters early. The bride was rarely more than twelve years old. The proceedings began with an ephemeral union, a sort of fictitious marriage, but celebrated nevertheless with great rejoicings in presence of parents and friends. The initiative and provisional husband passed round the neck of the bride the conjugal collar, the *tali*, and henceforth the marriage was concluded and had to be consummated; only at the end of four or five days the new husband was obliged to quit the house of the wife for ever. On the contrary, the young bride remained in the family, and from this period contracted a series of partial but durable marriages. The first marriage of the young Naïr girl had evidently no other object than defloration; it was a service demanded of a fictitious husband, and for which he was often paid. A traveller relates that for this preliminary marriage a porter or a workman was employed and paid. If his pretensions were too high, recourse was had to an Arab or a stranger; and, says the narrator, the gratuitous services of these last were always preferred if, when the ceremony was over, they withdrew in time and with good grace. When once well and duly prepared for marriage, the young Naïr girl might take for husband whomsoever she liked, except the provisional

[1] Major Ross King, *Journ. of Anthrop.* (1870), p. 32.

husband of the first few days.[1] The number of her husbands varied from four to twelve.[2] Each one of them was at first presented to her either by her mother or by her maternal uncle, an important personage in the family. Each co-partner was in his turn husband in reality during a very short time, varying from one day to ten, and he was free, on his side, to participate in divers polyandric conjugal societies. We are assured that in these curious *ménages* all the associated husbands lived in very good understanding with each other.[3]

Generally the Naïr husbands were neither brothers nor relatives, for these polyandrous people seemed to have ideas about incest analogous to our own. But the unions outside the caste were the only ones reputed culpable; they constituted a sort of social adultery. The conjugal prerogatives of the husbands were not unaccompanied by certain duties. They had to maintain the common wife, and they agreed together to share the expense. One took on himself to furnish the clothes, another to give the rice.[4] On these conditions each one could in his turn enjoy the common property, and, in order not to be troubled in the use of his rights, it sufficed the husband on duty to hang on the door of the house and on the wife's door his shield and his sword or knife.

The Brahmins were obliged to tolerate these polyandric marriages, so contrary, however, to their laws; they finished by even deriving a profit from them. In the Brahmanic families in contact with the Naïrs the eldest son alone married, so as not to scatter the patrimony; the others entered the matrimonial combinations of the Naïrs, and thus their children did not inherit.[5]

On their side, the Naïrs were naturally only acquainted with matriarchal heredity. No Naïr, says Buchanan, knows his father, and every man has for heirs the children of his sister. He loves them as if they were his own, and unless he is reputed a monster, he must show much more grief at

[1] Élie Reclus, *Les Primitifs*, p. 191.
[2] Hamilton, *Account of the East Indies*, vol. i. p. 308.
[3] Forbes, *Oriental Memoirs*, vol. i. p. 385.
[4] *Lettres Edifiantes*, vol. . p. 22.
[5] Robertson Smith, *Kinship*, etc., p. 313.

their death than he would for his own possible children—namely, those of his own wife.[1]

In comparing the two kinds of polyandry that I have just described, the patriarchal polyandry of the Thibetans, and the matriarchal polyandry of the Naïrs, the majority of sociologists consider the first as superior to the other. In so doing they seem to me not to be able to shake off sufficiently our European ideas. Doubtless the fraternal Thibetan polyandry, while leaving undecided the paternal filiation of the children, assures them a sort of collective paternal parenthood, since the fathers are of the same blood. This polyandrian family consequently differs less than the Naïr family from our own system of patriarchal kinship, which is reputed superior; but surely the liberty, and even the dignity of the woman, which must count for something, are more respected under the Naïr system, which not only does not reduce the woman to a thing possessed, that one lends to one's friends, but gives her the power of choosing her husbands.

Fraternal polyandry being declared superior to polyandry of the Naïr type, it has been concluded that in virtue of the law of progress it must have been preceded in all times and places by the latter. As regards the greater number of cases of Thibetan polyandry, the supposition is gratuitous; it seems, however, established as far as ancient Arabia is concerned, where, thanks to a very learned treatise recently published by Mr. W. Robertson Smith, professor of Arabic at the University of Cambridge,[2] we may note the causes of polyandry and follow its evolution.

III. *Polyandry in Ancient Arabia.*

The chief cause of ancient Arabian polyandry was the one we find in nearly all the polyandric countries—that is to say, the infanticide of daughters.

The primitive Arabs, extremely savage and even anthropophagous, were led to adopt the custom of female infanticide by the difficulty of living in their arid country,

[1] Buchanan, *Journey*, vol. ii. p. 411, etc.

[2] *Kinship and Marriage in Early Arabia*, 1885.

where famines were very common. Down to the present time the nomads of Arabia suffer constantly from hunger during a great part of the year.[1]

The custom of infanticide was inveterate among the Arabs, and Mahomet was obliged to condemn it over and over again in the Koran:—"They who from folly or ignorance kill their children shall perish.[2] Kill not your children on account of poverty.[3] Kill not your children for fear of poverty; we will feed them, and you also.[4] When it shall be asked of the girl buried alive for what crime she is put to death . . . every soul will then acknowledge the work that she had done."[5]

In this last verse the Koran bears witness to the custom of killing the girls, and it indicates the process in use, which actually consisted in burying them alive. This was done openly, and often the grave of the newly-born infant was dug by the side even of the couch of the mother who had just given birth to it. According to the morality of the primitive Arabs, these acts were not only very simple, but even virtuous and generous,[6] which seems to indicate that they were indeed only precautions against famine. An Arab legend, quoted by Mr. R. Smith, paints in lively colours these atrocious customs. It relates to a chief of Tamin, who became a constant practitioner of infanticide in consequence of a wound given to his pride. He was called Caïs, and was contemporary with Mahomet. The daughter of his sister was carried off in a razzia and given to the son of her captor, as was the usage in Arabia, where the captured women made part of the booty and were divided with it. This time, when Caïs came to reclaim his niece by offering to pay her ransom, the latter, being well pleased with the adventure, refused to quit her husband. Caïs, the uncle, was mortally offended, and from that moment he interred alive all his daughters, according to the ancient custom. But one day, during his absence, a daughter was born to him, whom the mother secretly sent to a relative to save her, and then declared to her husband that she

[1] *Kinship and Marriage in Early Arabia*, p. 283.
[2] Sourate, vi. p. 141.
[3] *Ibid.* 152.
[4] *Ibid.* xvii. p. 33.
[5] *Ibid.* lxxxi. pp. 8-14.
[6] R. Smith, *Kinship*, p. 282.

had been delivered of a still-born child. Some years later, the girl, grown tall, came to pay a visit to her mother. Caïs discovered her, while her mother was plaiting her hair and ornamenting it with cowries. "I arrived," the father is made to say, speaking to Mahomet, "and I said, 'Who is this young girl?' 'She is yours,' replied the mother, weeping, and she related how she had formerly saved her. I waited till the emotion of the mother was calmed; then one day I led away the girl; I dug a grave and I made her lie down in it. She cried, 'Father, what do you intend to do with me?' Then I covered her with earth. She cried again, 'Father, do you wish to bury me? Are you going away, and will you abandon me?' But I continued to heap earth on her until her cries were stifled. That was the only time it has happened to me to feel pity in burying a daughter."[1]

Such customs, combined with the sale to strangers of girls carried off in razzias, and the polygamy of the rich men, must assuredly have profoundly disturbed the numerical proportion of the sexes, and have rendered polyandry almost a necessity, which, besides, could not excite any scruple with the ancient Arabs, whose morals were very licentious. Thus the captured women often remained common to a group of relatives.[2] In the fifth century the Syrio-Roman law had even to forbid the contracts of fraternity, by which all was held in common, including the wives and children.[3]

That fraternal polyandry, called Thibetan, may have existed in Arabia, the passage of Strabo, which I have previously quoted in regard to promiscuity, would suffice to establish; but Arab writers expressly attest it, and notably Bokhâri (vi. 127), according to whom the number of polyandrous husbands was not allowed to exceed ten; besides this, various customs of more modern date, as, for example, the passing of the widow, by heritage, to the relatives of the husband, seem to arise from it. Moreover, even at the present day in Arabia, the father cannot give his daughter to another if the son of his brother demands her, and the latter has the right to obtain her at a lower price;[4] this is the right of pre-emption applied to the woman.

It seems, indeed, as if these were the vestiges of an

[1] R. Smith, *Kinship*, etc., pp. 279, 280.
[2] *Id.*, *ibid.* pp. 131-134.
[3] *Id.*, *ibid.* p. 135.
[4] *Id.*, *ibid.* p. 137.

antique fraternal polyandry, and it is in fact of fraternal or Thibetan polyandry that Strabo speaks. Has this fraternal patriarchal polyandry been preceded by a matriarchal polyandry, after the mode of the Naïrs—a polyandry which did not make the woman the property of the husbands? Without being able to give a direct proof of this, we may, however, consider it as very probable. In the present day the partial marriages, by which the women of the Hassinyeh Arabs engage themselves for some days of the week only, strongly resemble the matriarchal polyandry of the Naïrs, and temporary marriage, or *mot' a*, of the ancient Arabs approaches nearly to it also.

It is this kind of marriage, in all probability, that the prophet means when he inveighs against "fornication."

By the *mot' a* marriage the woman does not leave her home; her tribe preserves the rights it has over her, and her children do not belong to the husband. In short, the conjugal union is only contracted for a fixed time. These *mot' a* marriages had nothing dishonourable in them, and did not in the least prevent the women from finding fresh husbands when, at the expiration of the lease, they became once more free.[1]

The custom of *mot' a* marriage was long prevalent in Arabia. Ammianus speaks of it,[2] saying that the wife received a price or indemnity from her temporary husband, and that, if it happened to the contracting parties to wish to continue to live together at the expiration of the time fixed, they inaugurated a fresh and more durable union by a symbolic ceremony, during which the wife offered to her husband a javelin and a tent.

The prophet himself decided with great hesitation to condemn the *mot' a* marriage. A tradition makes him say that "if a man and a woman agree together, their union should last for three nights, after which they may separate or live together, as they please."[3]

In fact, the *mot' a* marriage was only abolished in the time of Omar; and it is important to remark with regard to it, that this mode of marriage, singular as it may appear to us, was, for the woman, very superior to the servitude of the

[1] R. Smith, *Kinship*, etc., pp. 69, 141-143.
[2] *Id.*, *ibid.* vol. xiv. p. 4.
[3] *Id.*, *ibid.* p. 67.

Mussulman harem. It was a personal contract, in which her parents did not interfere, and which did not degrade her from the rank of an independent person to the humiliation of merely being a thing possessed. The *mot' a* marriage indicates, besides, very free manners, as is attested by a number of facts and traditions, particularly certain religious rites of the Canaanites, the Aramites, and the pagan Hebrews, and also the licentious practices of women and girls in the temple of Baalbek.

By degrees the *mot' a* marriage gave place to a definite marriage, the *ba'al* marriage, by which the young girl went to live with her husband and owed him fidelity. Marriages of this kind were sought at first by the chiefs, to whom they assured alliances. As a consequence these unions became honourable, and dethroned the ancient matrimonial custom.[1] Henceforth the women who continued to live in the ancient mode were dishonoured, and treated as prostitutes, whose dwelling was indicated by a special flag. At the same time the taste for paternity was born in men, and, in case of doubt on this matter, sages whose profession it was, declared the signs by which a man could recognise his own offspring.[2]

IV. *Polyandry in General.*

I have quoted or made a summary of nearly all the information that has reached us on the subject of ancient and modern polyandry. From thence we may conclude that in no way are we authorised to consider this form of conjugal union as having been general. Still it has become a necessity in a good number of gross societies. It has specially prevailed in countries badly supplied with food, where the struggle for existence was severe, where warlike conflicts with neighbouring tribes were incessant, and where, in order to endure, the community was forced to diminish the *impedimenta* and the useless mouths. In such conditions, men still savage or barbarous have recourse without hesitation all over the world to female infanticide; and as, on the other side, the chiefs and strong men monopolise as many women as possible, the debauchery of unmarried

[1] R. Smith, *Kinship*, etc., pp. 141-143. [2] *Id.*, *ibid.* p. 143.

women and polyandrian households become necessary palliatives.

We have seen that there are two principal kinds of polyandry—the matriarchal and patriarchal. In the first, the woman or girl does not quit her family or her *gens*; sometimes even she is permitted the right of choosing her husbands, who are not related to each other, and upon whom the woman scarcely depends at all, since she remains with her own relations, and bears children for them.

On the contrary, in the patriarchal polyandry, the woman, captured or bought, is almost entirely uprooted; she leaves her natural protectors to go and live with her husbands, to whom she belongs, who are limited in number, are nearly always brothers or relations, and to whom she cannot be unfaithful without authorisation.

Both forms of polyandric marriage suppose a complete absence of modesty, of sexual reserve and moral delicacy. But we know that these qualities can only be the fruit of long culture. In this respect both matriarchal and patriarchal polygamy are equal. But it is important to observe that the first enslaves woman much less. On the other hand, the second already permits the establishment of a sort of paternal filiation, since the husbands are generally of the same blood. For this reason it is reputed superior.

In reality matriarchal polyandry always coincides with the primitive family form, the matriarchate—that is to say, with a system that takes no account of paternal filiation, and leaves the children to the tribe of the mother.

Patriarchal polyandry, on the contrary, already presents the outline of a sort of paternal family, with the right of primogeniture attributed to the first-born.

We shall have to study in detail both the patriarchate and the matriarchate. Polyandry, in its reputedly highest form, the Thibetan, only constitutes a patriarchate of the most imperfect kind, since there is still a confusion of fatherhood.

Proof is still wanting to force us to conclude that matriarchal polyandry must always have preceded the other. This appears to be true for ancient Arabia only. In all other places we can merely suppose it to have been so. We should be equally mistaken if we admitted *a priori*

that patriarchal polyandry implies a degree of civilisation superior to that of the countries where matriarchal polyandry prevails. The ancient Arabs, of whom Strabo speaks, practised fraternal polyandry, and yet we know that they were scarcely civilised, they were cannibals, and so ferocious that their wives accompanied them in combats in order to despatch and mutilate the wounded enemies. These furies made themselves necklaces and bracelets for their ankles with the noses and ears of a dead enemy,[1] and sometimes even they ate his liver.

In conclusion, polyandry is an exceptional conjugal form, as rare as polygamy is common. It must be classed with experimental and term marriages. With our European ideas on conjugal fidelity, obligatory by the right of proprietorship, we can scarcely conceive even of the possibility of this perfect absence of jealousy, this placidity of the co-husbands. It is indelicate, doubtless. But how shall we describe our morality and the laws that give to the deceived husband the right of life and death over his faithless companion, and in this respect bring us down to the level of the savage? Do indelicate manners rank lower than ferocious manners? They are both those of the animal.

[1] R. Smith, *Kinship*, etc., p. 284.

CHAPTER VI.

MARRIAGE BY CAPTURE.

I. *Rape.*—Rape and marriage—Rape in Tasmania, Australia, New Guinea, Africa, America, among the Tartars, the Hindoos, the Hebrews, and the Celts—The rape of concubines in ancient Greece.

II. *Marriage by Capture.*—The ceremonial of capture in marriage—Symbolic capture among the Esquimaux, the Indians of Canada, in Guatemala, among the Mongols, the aborigines of Bengal, in New Zealand, among the Arabs, the ancient Greeks, in ancient Rome, in Circassia, among the modern Celts, and in Livonia.

III. *Signification of the Ceremonial of Capture.*—Violent exogamy has not been universal—Rape and marriage by purchase—What the ceremonial of capture means.

I. *Rape.*

The marriage by capture, which we have now to consider, is not actually a form of marriage; it is only a manner of procuring one or more wives, whatever at the same time may be the prevailing matrimonial *régime.* If, however, we cannot dispense with the special study of marriage by capture, it is because it has been made to play a chief *rôle* in sociology. According to some authors, it has been a universal necessity, and must have preceded exogamy in all times and places.

Surely this too general theory may be contested; but it is beyond doubt that the rape of women has been widely practised all over the world, that very often it has been considered glorious, and that in many countries it has been attenuated into pacific marriage.

Nothing is more natural and simple than rape among savage or barbarous tribes, who hold violence in esteem and

use it largely, and who, as we have previously seen, are almost always addicted to female infanticide. But has the widely-spread custom of rape the great importance in sociological theory that has been attributed to it? This is a question to which we can only reply after having consulted the facts.

Throughout Melanesia capture has been the primitive means of procuring wives, or rather slaves-of-all-work, absolutely at the discretion of the ravisher. Bonwick, indeed, tells us that in Tasmania, and consequently in Australia, capture was more often simulated only, and resulted from a previous agreement between the man and woman;[1] but the savage manner in which the rape was effected abundantly proves that amiable agreement was exceptional. The Australian who desires to carry off a woman belonging to another tribe prowls traitorously around the camp. If he happens to discover a woman without a protector he rushes on her, stuns her with a blow of his club (*douak*), seizes her by her thick hair, drags her thus into the neighbouring wood; then, when she has recovered her senses, he obliges her to follow him into the midst of his own people, and there he violates her in their presence, for she has become his property—his domestic animal.[2] The captured woman generally resigns herself without difficulty;[2] in truth, she has, generally, changed her master, but not in the least changed her condition.

Sometimes two men unite to commit one of these rapes. They glide noiselessly into a neighbouring camp in the night; one of them winds round his barbed spear the hair of a sleeping *lubra*, the other points his spear at her bosom. She awakes, and dares not cry out; they take her off, bind her to a tree, and then return in the same manner to make a second capture; after that they return in triumph to their own people.[3] The captives rarely revolt, for they are, in a way, accustomed to the capture. From infancy they have been familiarised with the fate that awaits them, for the simulation of the rape is one of the games of the Australian

[1] *Daily Life and Origin of the Tasmanians*, p. 65.

[2] Dumont d'Urville, *Hist. Univ. des Voy.*, vol. xviii. p. 225.—Oldfield, *Trans. Ethn. Soc.*, vol. iii. p. 250.

[3] *Chambers's Journal*, p. 22 (October 1861).

children.[1] Later the life of a pretty Australian girl is marked by a series of plots to carry her off, and of successive rapes, which force her to pass from hand to hand, and expose her to wounds received in conflicts, and to bad treatment inflicted by the other women amongst whom she is introduced. Sometimes she is dragged very far, even hundreds of miles from the place of her birth.[2]

It is the duty of the tribe to which the ravished woman belongs to avenge her, and the Australian has, after his own manner, a strong sentiment of certain obligations, which for him are moral; but more frequently, to escape too great damages, the tribes hold a meeting, and the ravisher submits to a symbolic retaliation agreed on beforehand. Armed with his little shield of bark, he takes his place at about forty yards from a group of ten warriors belonging to the aggrieved tribe, and each one of these throws two or three darts at him, which are nearly always avoided or parried. Thenceforth the offence is effaced, and peace re-established.[3]

The same customs prevail among the Papuans of New Guinea. At Bali the men carry off and violate brutally the solitary women they may meet; and afterwards they agree with the tribe as to compensation.[4] In like manner, in the Fiji Isles, rape, real or simulated, was general and even glorious. A particular divinity presided over it. The ravished woman either fled to a protector or resigned herself, and then a feast given to the parents terminated the affair.[5]

To be able to see in these bestial customs anything resembling marriage, one must be a prey to a fixed idea —a positive matrimonial monomania. There is here no marriage by capture, but rather slavery by capture. This is not the only method of procuring wives practised by the Australians. They often proceed pacifically by traffic, and a man acquires a wife by giving in exchange another woman of whom he has power to dispose—a sister

[1] Collins, *English Colony in New South Wales*, p. 362.
[2] G. Grey, *Travels in North-Western Australia*, vol. ii. p. 249.
[3] *Chambers's Journal*, 1864.
[4] *Notices on the Indian Archipelago*, p. 90.
[5] Williams, *Fiji and the Fijians*, vol. i. p. 174.

or relative.[1] Certain tribes had also instituted a sort of regulated promiscuity—a collective marriage between all the men of one clan and all the women of another. I shall have to return to the consideration of this singular form of sexual association. For the moment I confine myself to noticing that rape is not always obligatory in Australia.

Neither is it so among the negroes of Africa; it is even more rare there than in Melanesia, but there also it does not constitute a marriage. Women are carried off just in the same way as other things are carried off. Thus the Damara Hottentots often steal wives from the Namaquois Hottentots.[2] Among the Mandingos and the Timanis there is no marriage by capture, properly speaking; already they purchase the daughter from her parents, without, of course, consulting her; then the intending purchaser, aided by his friends, carries off his acquisition in a brutal manner, whether she will or not. It is a simple commercial affair; the daughter is an exchange value representing a certain number of jars of palm wine, of stuffs, etc.

Amongst the natives of America brutal rape was, or still is, very common. In Terra del Fuego, the young Fuegians carry off a woman as soon as they are able to construct or procure a canoe.[3] From tribe to tribe the Patagonians at war exterminate the men and carry off the women. The Oen Patagonians make incursions every year at the time of "the red leaf" on the Fuegians to seize their women, their dogs, and their weapons.[4] The Indians on the banks of the Amazon and Orinoco continually capture women, and thus every tribe is sometimes nearly without women and sometimes overflowing with them.[5] The Caribs so frequently procured wives in this way that their women did not often speak the language of the men.[6] In the Redskin tribe of the Mandans the rape of young women was a perpetual cause of trouble, of disorder, and of

[1] McLennan, *Primitive Marriage*, p. 321.
[2] Campbell, *Hist. Univ. des Voy.*, vol. xxix. p. 343.
[3] Laing, *Hist. Univ. des Voy.*, vol. xxviii. p. 31.
[4] Fitzroy, *Voy. Beagle*, vol. ii. p. 182.
[5] Fitzroy, *loc. cit.*, vol. ii. p. 205.
[6] McLennan, *loc. cit.*, p. 48.

vengeance, proportioned to the power and to the anger of the relations of the ravished woman.[1]

We find similar customs among savage or barbarous peoples nearly everywhere. The Tartars, says Barnes, make their wives of the prisoners that they capture in battles.[2]

The Code of Manu also mentions this primitive mode of union more or less conjugal:—"When a young girl is carried off by force from the parental house, weeping and crying for succour, and those who oppose this violence are killed or wounded, and a breach is made in the walls, this mode (of marriage) is called that of the giants."[3]

The Bible relates several facts of the same kind. Thus the tribe of Benjamin procured themselves wives by massacring the inhabitants of Jabez-Gilead and capturing four hundred of their virgins. Another time the Benjamites practised a Sabine rape in carrying off the women during a feast near Bethel.

The Israelites, having vanquished the Midianites, killed all the men, according to the Semitic custom, and took away the cattle, the children, and the women.[4] But Moses, always directly inspired by the Lord, ordered them to put to death the women and even the male children, and to keep the young girls and virgins.[5] There were sixteen thousand maidens, of whom thirty-two were reserved for the Lord's share, which doubtless means for the priests. Of the sheep, oxen, asses, and maidens that remained, Moses further deducted the fiftieth part, which he gave to the Levites of the tabernacle.[6]

This ferocity and this coarse assimilation of captured women to cattle are not peculiar to the people of God, but prevailed amongst the primitive Arabs,[7] or rather amongst all the Semites, who were still savage or barbarous.

Capture in war has, besides, been largely practised by all races and throughout the world. An old Irish poem, the "Duan Eiranash," speaks of three hundred women carried

[1] McLennan, *Primitive Marriage*, p. 71.—Lewis and Clarke, *Travels to the Source of the Missouri River*, vol. i. p. 231.
[2] *Hist. Univ. des Voy.*, vol. xxvii. p. 130.
[3] *Code of Manu*, book iii. p. 33.
[4] Numbers, ch. xxxi. ver. 7-9.
[5] *Ibid.* ver. 15-18.
[6] *Ibid.* ver. 40-47.
[7] R. Smith, *Kinship*, etc.

off by the Picts from the Gaels, who, finding themselves thus deprived of their women by a single blow, allied themselves then with the Irish.

I will confine myself to these examples, gleaned from all parts, and which it would be easy to multiply. They amply suffice to establish that in primitive societies woman, being held in very low esteem, is absolutely reduced to the level of chattels and of domestic animals; that she represents a booty like any other; that her master can use and abuse her without fear. But in these bestial practices there is nothing which approaches, even distantly, to marriage, and we are not in the least warranted to call these brutal rapes marriages. Even in the countries where a true marriage exists, the customs and the laws tolerate for a long time the introduction into the house of the husband captured slaves, who are treated by the master as concubines by the side of the legitimate wife or wives. The heroes of Homer profit largely by this legal tolerance, and when the Clytemnestra of Æschylus justifies herself for having killed her husband, she alleges, among other extenuating circumstances, the intimacy of Agamemnon with his slave Cassandra.

Assuredly in all this there is no marriage. We shall presently see that in many countries the concubinate, legal and patent, has co-existed, or co-exists, by the side of marriage without being confounded with it. It is important to reserve the name of *marriage by capture* to legal and pacific marriage, in the ceremonial of which we find practices recalling or simulating by survival the primitive rape of woman.

II. *Marriage by Capture.*

It is to be observed that this symbolic rape does not always signify that the capture of the woman has preceded pacific conjugal union. It represents especially a mental survival, the tradition of an epoch, more or less distant, when violence was held in high esteem, and when it was glorious to procure slaves for all sorts of labour by force of arms. In the countries where the ceremonial of capture exists, the fine times of rape are generally somewhat gone

by, but the mind is still haunted by it, and even in peaceful marriages, after the contract or bargain is concluded, men like to symbolise in the ceremonial the rapes of former days, which they cannot and dare not any longer commit. These practices have also another bearing: they signify that the bride, then nearly always purchased from her parents, must be in complete subjection to the master that has been given her, and occupy the humblest place in the conjugal house.

For all these reasons the symbolic ceremonial of capture has been, or is still, in use with many races at the celebration of their marriages. In some degree it is found all over the world. Among the Esquimaux of Cape York the marriages are arranged in a friendly way by the parents of the future couple, and nevertheless, from the infancy of the latter, the conjugal ceremony must simulate a capture. The future bride must fly, must defend herself with her feet and hands, scream at the height of her voice, until her new master has succeeded in taking her to his hut, where she at once settles happily.[1]

In the same way, in Greenland the bridegroom captures his bride, or has her captured for him; and in the latter case he has recourse to the help of two or three old women.[2]

With the Indians of Canada, where sometimes a true marriage is concluded in presence of the chief of the tribe, when he has pronounced the matrimonial formula, "the husband turns round, stoops down, takes his wife on his back, and carries her to his tent, amid the acclamations of the spectators."[3]

Some Redskin tribes, observed by Lafitau, symbolised rape even in the intimate relations between young couples. The husband was obliged to enter the wigwam of his wife in the night; it would be a grave impropriety for him to approach it in the day-time.[4]

In ancient Guatemala, where marriages were celebrated with a certain pomp, the father of the bridegroom sent a deputation of friends to seek the bride, and one of these

[1] T. Hayes, *The Open Sea at the Pole*, pp. 448, 449.
[2] Egede, *History of Greenland*, p. 143.
[3] Carver, *Travels*, p. 374.
[4] Lafitau, *Mœurs des Sauvages Américains*, t. 1er. p. 576.

messengers had to take the girl on his shoulders and carry her to an appointed spot, near the house of the bridegroom.[1]

In Asia, over the vast Mongol region extending from Kamtschatka to the country of the Turcomans, the ceremonial of capture is always held in honour.

This symbolism of capture is especially curious with the Kamtschatdales. There it is not as a conqueror that the husband enters the family of the wife, since he must first do an act of servitude, find the parents of the girl he desires, put himself at their service, and take his part in the domestic labour. This period of probation may last a long time, even years,[2] and surely it is a singular prelude to a marriage by violent capture. However, when the time of the novitiate is over, the future husband is allowed to triumph violently and publicly over the resistance of his bride. She is armed with thick garments, one over the other, and with straps and cords. Besides this she is guarded and defended by the women of the *iourte*. However, the marriage is not definitely concluded until the bridegroom, surmounting all these obstacles, succeeds in effecting on his well-defended bride a sort of outrage on modesty, that she herself must acknowledge by crying *ni ni* in a plaintive tone. But the girls and women of the guard fall on the assailant with great cries and blows, tear his hair, scratch his face, and sometimes throw him. Victory often necessitates repeated assaults and many days of combat. When at last it is gained, and the bride has herself acknowledged it, the marriage is settled, and is consummated the same evening in the *iourte* of the bride, who is not taken to her husband's house till the next day.[3]

The ceremonial of capture still continues in the marriages of the Kalmucks, the Tungouses, and the Turcomans, but has become less coarse.

With the Kalmucks the girl is first bought from her father, and then, after a pretended resistance, is carried away on a horse ready saddled.[4] The custom varies:

[1] Bancroft, *Native Races*, etc., vol. ii. p. 668.
[2] Kotzebue (*Deuxième Voyage*), *Hist. Univ. des Voy.*, t. xvii. p. 392.
[3] Beniouski, *Hist Univ. des Voy.*, t. xxxi. p. 408.
[4] H. de Hell, *Travels in the Steppes of the Caspian Sea*, p. 289.

sometimes it is enough to place the bride, by force, on a horse; sometimes she flees, always on horseback, but is pursued and caught by the bridegroom, who consummates the marriage on the spot, and then conducts his prize to his tent.[1]

The Tungouses, coarser still, proceed by an attempt on modesty, as with the Kamtschatdales; the bridegroom must attack his bride and tear her clothes.[2]

With the Turcomans, marriage can be concluded with or without the consent of the parents. In the latter case, the young people fly and seek refuge in a neighbouring *obah*. They are always well received there, and remain a month or six weeks. During this time the elders of the two *obahs* negotiate an arrangement with the parents; they agree on the price of the girl, who afterwards returns to the paternal domicile; she must remain six months or a year, or even longer, before living with her husband, and during all this time he may only see her secretly. Sometimes the flight is executed with the previous consent of the parents, and then it is no more than a symbolic capture,[3] a comedy.

In reality rape, more or less real, is often replaced by a simple ceremonial with the greater part of the nomads of Central Asia, and notably the Turcomans. Then the young girl, clothed in her bridal costume, bestrides a fiery horse, which she puts to a gallop, having at the saddle a kid or a lamb freshly killed. The bridegroom and all the wedding guests, also on horseback, pursue the future wife, who, by clever turns and evolutions, hides herself, and hinders them from seizing the animal she has carried off.[4] All this is plainly the mere mimic of rape, and there is in these divers customs a designed gradation: at first the actual stealing of the girl, with the understanding that the affair will not end tragically; then a stealing that may be called legal, as it is authorised by the parents; at length the simple ceremony symbolic of rape by violence.

Customs very similar to these are found with a certain number of the aborigines of Bengal.

[1] Clarke, *Travels*, etc., vol. i. p. 433.
[2] Erman, *Travels in Siberia*, vol. ii. p. 372.
[3] Fraser's *Journey*, vol. ii. pp. 372-375.
[4] A. Vambéry, *Voy. d'un faux Derviche*, p. 295.

The Kurmis and other *sudras* celebrate marriage by a pretended combat. Sometimes the bridegrooms mark their foreheads with blood, which seems, indeed, to be the origin of the singular and nearly universal custom in India of the *sindradan*,[1] consisting of marking the forehead of the bride with vermilion. The vermilion has apparently replaced the blood, and the blood may, and doubtless does, symbolise a violent rape.

With the Mecks and the Kacharis, the bridegroom, accompanied by his friends, goes to the house of his future bride; he there meets the friends of the latter, and the two troupes simulate a combat, in which the future husband is always victor; the bride finishes by being carried off, and her husband has only to feast the friends of both parties, and pay the father the price of the girl.[2]

With the Soligas, the man carries away the young girl with her consent, and goes, like the Mongols, to a neighbouring village to pass the time of the honeymoon, after which the couple return home and give a feast.[3]

The custom of simulated capture still exists among other aboriginal tribes of India, the Khonds, Badagas, etc.

It is evident that in primitive humanity, to carry off a woman with armed violence was considered a glorious exploit, since in the most diverse races pacific marriage assumes, with such good will, the pretence of violent conquest.

In New Zealand, in order to marry a girl, a man applied either to her father or nearest relation; then, consent being obtained, he ravished his future bride, who was bound to resist energetically. As the New Zealand women were robust, the contest, however courteous it might be, was severe; the clothes of the girl were generally torn to shreds, and it sometimes took hours to drag her a hundred yards.[4]

Sometimes the mother of the bride interfered. Mr. Yate mentions a case of this kind. It relates to a mother quite content with the marriage of her daughter, but obliged by custom to make a show of violent opposition.

[1] Dalton, *Ethn. Bengal*, p. 319. [2] *Id.*, *ibid.* p 86.
[3] Buchanan, *Journey from Madras*, vol. ii. p. 178.
[4] Earle, *Residence in New Zealand*, p. 244.

The newly-married couple, on coming out of the church, for they were converted, met the old woman, vociferating and tearing her hair, and abusing the missionary, but telling him at the same time in a low voice not to mind, for she was not serious.[1]

In certain districts of New Zealand the future husband was obliged literally to carry off the girl. When the marriage was negotiated and, in principle, concluded, all the relatives watched the *fiancée* with the greatest care, and held themselves in readiness to defend her. The young man had to seize his bride at all costs by force of arms; his honour depended on it, and often he suffered severely in conducting his glorious enterprise to a successful end.[2]

The ceremonial of capture evidently springs from customs of rape, whether ancient or not; it is, therefore, quite natural to meet with razzias among the Bedouins, as among all of their race. With the Bedouins of Sinai, the comedy is played to the life. The bridegroom, accompanied by a couple of friends, attacks the girl when she is leading the flocks home. She defends herself vigorously by throwing stones, and is esteemed according to the amount of energy she shows. At length they finish by taking her to the tent of her father, where the name of her future husband is proclaimed. After this the girl is dressed as a bride, placed on a camel, all the time feigning resistance, and conducted to the encampment. A feast and presents terminate the ceremony.[3]

With the Mezeyn Arabs things are pushed further. The girl, in the so-called capture, evades pursuit and takes refuge in the mountains, where her friends have prepared provisions for her beforehand. The bridegroom rejoins his future wife in her retreat, and it is there that the marriage is consummated. After this the couple return to the paternal domicile, which the woman, unless she is with child, does not quit for a year.

The matrimonial comedy is not always so complicated. With the Amezas the bride only runs from tent to tent, and is at last conducted by several women to a tent prepared at

[1] Yate, *New Zealand*, p. 96.
[2] Moerenhout, *Voy. aux îles du Grand Océan*, t. ii. p. 68.
[3] Burckhardt, *Notes*, vol. i. p. 263.

some distance; her bridegroom awaits her there, but he has to force her to enter it; that done, the women retire.[1]

With the Moors of Java, relates Schouten, the father of the bride carries her, all swathed up, to the bridegroom. The latter, aided by two of his paranymphs, lifts her on a horse and rides away with her. Once arrived at his house he hides his wife there and goes off, without thanking his assistants and friends.

Many European races have also practised the ceremonial of marriage by capture. The Bœotians, says Pausanias, conducted the wives to the house of the husband in a chariot, of which they afterwards solemnly burnt the pole, to indicate that the woman was henceforth the property of her master, and was never to think of quitting his abode. But in ancient Greece it was at Sparta especially that the nuptial ceremony of capture was practised.[2] A frequently quoted passage from Plutarch's *Life of Lycurgus* gives us details on this point. "In their marriages the bridegroom carried off the bride by violence; and she was never chosen in a tender age, but when she had arrived at full maturity. Then the woman that had the direction of the wedding cut the bride's hair close to the skin, dressed her in a man's clothes, laid her upon a mattress, and left her in the dark. The bridegroom, neither oppressed with wine nor enervated with luxury, but perfectly sober, as having always supped at the common table, went in privately, untied her girdle, and carried her to another bed. Having stayed there a short time, he modestly retired to his usual apartment to sleep with the other young men, and observed the same conduct afterwards, spending the day with his companions and reposing himself with them in the night, nor even visiting his bride but with great caution and apprehensions of being discovered by the rest of the family; the bride at the same time exerted all her art to contrive convenient opportunities for their private meetings," etc.[3]

At Rome the ceremonial of capture was kept up for a long time in the plebeian marriages, without confarreation or coemption. As in so many other countries, they played

[1] Burckhardt, *Notes*, vol. i. p. 107.
[2] Démeunier, *Esprit des Différents Peuples*, t. 1er. p. 296.
[3] Plutarch, *Life of Lycurgus*.

the comedy of the carrying off of the bride by the bridegroom with the pretended resistance of the mother and the relations.[1] In the more respectable marriages the ceremonial of capture was simplified, but still very significant. The hair of the bride was separated with the point of a javelin (*hasta celibaris*),[2] and for this symbolic ceremony a javelin that had pierced the body of a gladiator was preferred. Then the bride, conducted to the house of her husband, was to enter it without touching the threshold; she was lifted over it.[3] It is curious to find this same custom in China now in our own day, and we can hardly help recognising in it the symbolic embodiment of capture.

A similar ceremonial is always practised in Circassia. In the midst of a feast the bridegroom enters, escorted by his friends, and carries off his bride, who henceforth becomes his wife.[4]

Moreover, as at Sparta, the newly-married Circassian must not visit the wife, except in secret, for a whole year—a term evidently fixed, as at Sparta, for the period of probable pregnancy.[5]

It is not very long ago that a ceremonial of the same kind was observed quite near us, in Wales. On the day fixed, the bridegroom and his friends, all on horseback, came to take the bride; but they found themselves in the presence of the friends of the young girl, also on horseback, and a mock fight ensued, during which the future wife fled on the crupper of the horse of her nearest relative. But instantly the squadron of the bridegroom, counting sometimes two or three hundred horse, galloped in pursuit. Finally they rejoined the fugitive, and all was terminated by a feast and common rejoicings.[6]

In Livonia every marriage was also the occasion of a simulated combat of cavalry, as with the Welsh, but it took place before the marriage.[7] In Poland also, and in Lithuania and Russia, the seizure of the girl often preceded marriage.

[1] Apuleius, *Golden Ass*, iv. [2] Plutarch, *Romulus*.—Ovid, *Fastes*, ii.
[3] Lucan, ii.—Virgil, *Æneid*, iv.
[4] Louis Moser, *The Caucasus and its People*, p. 31.
[5] Wake, *Evolution of Morality*, vol. i. p. 401.
[6] Lord Kames, *Sketches of the Hist. of Man*, book i., sec. 6.
[7] *Historia de gentibus septentrionalibus* (1555), lib. xiv. cap. 2.

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I shall here end the enumeration of these customs, which are all manifestly symbolical of capture. We still find the trace of it even in the Brittany of to-day, where the representative of the husband, the *bazvalan*, and the parents of the *fiancée* sing, alternately, strophes of a marriage song, in which the one asks and the others refuse the bride, offering in her stead either a younger sister, or the mother or grandmother.[1] Our inquiry is terminated; it remains now to ask what is the meaning of this ceremonial so widely spread in all ages and in all countries.

III. *Signification of the Ceremonial of Capture.*

The author of an interesting book on primitive marriage, Mr. McLennan, and after him a great number of sociologists, have concluded that in savage societies sexual unions or associations have been generally effected by the violent capture of the woman, that by degrees these captures have become friendly ones, and have at length ended in a peaceful exogamy, retaining the ancient custom only in the ceremonial form.

It is quite possible to have been thus in a certain number of countries; but we must beware of seeing in this a necessary and general evolution. Surely savage hordes and tribes naturally carry off the women and girls of their neighbours and enemies, the little groups with whom they are incessantly struggling for existence. They seize their women as they do everything else, and impose on the captives the unenviable *rôle* of slaves-of-all-work. Given the brutality of primitive man, the fate of the captured woman is necessarily of the hardest, and it is natural that the woman of the tribe should not solicit it. Thus, with or without reason, the Australian fells to the ground his captured wife, pierces her limbs with his javelin, etc. A stranger, a prisoner, violently brought into a society where she cannot count on a single friend, will evidently be more resigned to this bad treatment, and can nearly always be made to submit to it without resistance. But we must not accept this as a sufficient explanation of exogamy. We have

[1] La Villemarqué, *Barzas Breis.*

seen that the Australian, accustomed to primitive rape in all its brutality, only has recourse to it when he cannot procure by simple barter the woman he covets.

There is certainly great temptation to capture a woman. A man thereby escapes paying a price for her to her parents, which is the rule in nearly all savage countries, but the operation is not effected without risk and reprisals more or less dangerous, so that before undertaking it he thinks twice.

We must be careful not to confound rape with marriage; nothing is more distinct with savage and even with civilised men. Perhaps even the dangers and the inconveniences of brutal capture have given rise to the idea of primitive conjugal barter, of a peaceful agreement by which a girl was ceded to a man for a compensation agreed upon. In principle this commercial transaction left to the husband the greater part of the rights he would have acquired by violent capture; but, in reality, these rights were necessarily mitigated, for the woman, being thus ceded in a friendly manner, was not completely abandoned by her own people.

Thus in Polynesia, or at least in New Zealand, the husband who murdered his wife, although he had purchased her, incurred the revenge of her relations, unless she was guilty of adultery.[1] It was often thus, but not always, however; for with the Fijians, in delivering a daughter to the purchaser, the father or the brother said to the future husband, "If you become discontented with her, sell her, kill her, eat her; you are her absolute master."[2] Much nearer home, in ancient Russia, the father at the moment of marriage gave his daughter some strokes with a whip, saying, "Henceforth, if you are not obedient, your husband will beat you."[3]

Such customs show us plainly why, in so many countries, symbolic practices recalling violent capture are kept up in the ceremony of marriage. In the first place, by reason even of the dangers to which it exposed the ravisher, rape was considered a brilliant action, and pleasure was felt in simulating it. But besides and beyond all, the ceremonial of capture symbolised also the subjection of the woman sold

[1] *Voyage de l'Astrolabe.* [2] Moerenhout, *Voy. aux îles*, t. ii. p. 62.
[3] Démeunier, t. 1er. p. 191.

or ceded by her parents; it sanctioned the very excessive rights that the husband acquired over the wife. As a rule, the ceremonial of capture coincides with a very great subjection of the woman, even where it is only a very distant survival. At Sparta, for example, the wife might still be lent by the husband, and it was the same in ancient Rome, where she was, according to the legal expression, *in manu*, assimilated to slaves, and where the *pater familias* had the right of life and death over her.

We are, therefore, warranted in believing that in civilised countries where conjugal legislation is still derived from the Roman law, the subordinate position assigned to woman is the last vestige of primitive marriage by capture or by rape, attenuated to a purchase, as practised in the earliest times of the Romans.

CHAPTER VII.

MARRIAGE BY PURCHASE AND BY SERVITUDE.

I. *The Power of Parents.*—The hypothesis of a primitive matriarchate —Maternal filiation and the condition of the woman—Parental right of property in children — Conjugal sales of little girls in Africa, Polynesia, America, and India.

II. *Marriage by Servitude.*—Labour and exchange value—Marriage by servitude with the Redskins, in Central America, in India, with the Hebrews—Influence of marriage by servitude on the condition of the woman.

III. *Marriage by Purchase.*—With the Hottentots and the Kaffirs in Middle Africa, in Polynesia, in America, with the Mongols in China, with the aborigines of India, with the Berbers, the Hindoos in Malasia, and in Greco-Roman antiquity — Dowry marriage — Moral signification of marriage by purchase.

I. *The Power of Parents.*

Marriage by capture, that is to say, the custom of rape, necessarily supposes a profound disdain for the ravished woman, and the antipathies or sympathies she may feel. It is indeed the truth that, as far back as we can carry our historical and ethnographical investigations, we find, with very rare exceptions, the subjection of woman is the rule in all human societies, and that the more backward the civilisation the harder was the subjection. Some sociologists have pretended that maternal filiation implied for the woman a sort of golden age—a reign of Amazons—during which the woman, as centre of the family, must have been honoured as its chief. All we know of ethnography gives the lie to this hypothesis. In the present day the matriarchate

does not anywhere exist, but maternal kinship does, and we do not find that it involves a milder condition for the woman. This system of filiation necessarily indicates a gross state of society, in which paternity is still uncertain. Now, as a rule, the subjection of woman is in inverse ratio to the development of man. In primitive societies, where might is the only right, the woman, on account of her relative weakness, is always treated with extreme brutality. It would be difficult, without losing all human quality whatever, to be less intelligent than the Australian, and equally difficult to imagine a more cruel servitude than that of the Australian woman, always beaten, often wounded, sometimes killed and eaten, according to the convenience of her owner. The Fijians, much more intelligent than the Australians, amused themselves with beating their mother, and with binding their wives to trees in order to whip them.[1] A Fijian named Loti, simply to make himself notorious, devoured his wife, after having cooked her on a fire that he had forced her to light herself.[2] No kind of ferocious caprice was condemned by the morality of the country. But such manners are as far as possible from being consistent with the idea of a matriarchal society, in which a place of honour is accorded to the wife.

In primitive societies the condition of children is, if possible, still more subordinate than that of woman. Infanticide at the moment of birth is not even a venial fault. And later, the parents exercise the undisputed right of life and death over their progeny; and when slavery is instituted, the children become a veritable article of merchandise. In short, the rights of a father of a family are unlimited.

From this primitive right of property accorded to the parents over their children has resulted quite naturally all over the world the right of marrying them without consulting them at all. Moreover, as it had long been the custom to sell them, marriage was naturally considered as a commercial bargain, and by degrees marriage by purchase even took the place of marriage by capture, but after having long co-existed with it. Capture and purchase had each

[1] Williams, *Fiji and the Fijians*, vol. i. p. 156.
[2] Pritchard, *Polynesian Reminiscences*, etc., p. 371.

their advantages and disadvantages. Capture cost nothing, and it procured wives and concubines over whom the husband had every possible right; but, in practice, it was not exempt from danger, and once accomplished, it exposed him still to revenge and retaliation. Men became resigned, therefore, to the purchase of the wife, as soon as they could dispose of some exchange-values; and as nothing, absolutely nothing, was any obstacle to the caprice or avidity of the parents, the most unreasonable marriages were often negotiated, and notably the marriages of children.

This custom of selling children, especially girls, for a future conjugal association is very common all over the world.

In New Caledonia the children are betrothed by the parents almost from the moment of birth.[1] In Africa, among the black races, and notably the Hottentots, whose women age fast, the prudent men retain, years in advance, the little girls destined to succeed their actual wives.[2] In Ashantee little girls of ten and twelve thus sold are already legally considered the wives of the acquirer, although they have not yet left their mothers, and any familiarity taken with them by another man is punished by a fine paid to the future owner.[3]

In Polynesia, also, the fathers, mothers, and relatives arranged the conjugal unions of the children years before these unions were actually possible.[4]

With the Moxos and the Chiquitos of South America premature marriages were such a settled order of things that there were no celibates above the age of fourteen for the men and twelve for the women. The Jesuit missionaries in America had completely adopted this native custom, and they often married young girls of ten to boys of twelve years. Naturally these child marriages entailed sometimes equally precocious widowhood. D'Orbigny states that he has seen among these tribes a widower of twelve and a widow of ten years.[5]

[1] De Rochas, *Nouv. Calédonie*, p. 231.
[2] Burchell, *Hist. Univ. des Voy.*, t. xxvi. p. 330.
[3] Bowdich, *Hist. Univ. des Voy.*, t. xxviii. p. 430.
[4] Moerenhout, *Voy. aux îles*, etc., t. ii. p. 67.
[5] *Homme Américain*, t. 1er. p. 40.

In the time of Marco Polo the Tartars of Asia celebrated marriages that were more singular still—the marriages of deceased children. The families drew up the contract as if their children had been living, solemnly celebrated a symbolic wedding, then burned not less solemnly the fictitious contract, which would be, they thought, the means of holding it good in the other world for the vanished young couple. Thenceforward an alliance existed between the contracting families as if the marriage had been real.[1]

Among the Reddies of India a young woman from sixteen to twenty years old is frequently married to a little boy of five or six. The wife then goes to live either with the father, or with an uncle, or a maternal cousin of her future husband. The children resulting from these extra-conjugal unions are attributed to the boy, who is reputed to be the legal husband. When once this boy has reached manhood his legitimate wife is old, and then he in his turn unites himself to the wife of another boy, for whom he also raises up pseudo-legitimate children.[2]

Child-marriages, at least of little girls, are still very common in India amongst the Brahmins, and it is not unusual to see sexagenarian Brahmins marry little girls of six or seven years, for whom they pay money.[3]

On this point, as on most others, our European ancestors have not been more delicate than the savage or barbarous races of other countries. Thus Plutarch tells us that in ancient Italy the girls were often married before the age of twelve years, but that they did not become wives before that age.[4]

At the present day the Russian peasants still frequently act like the Reddies of India, and it is not rare to see, under the *Mir* system, young boys of eight or ten years married to women of twenty-five or thirty. Very often, in this case, the chief of the family becomes the effective husband of the woman while the legal husband is growing up.[5]

[1] Marco Polo (Edition Populaire), p. 61.
[2] Schortt, *Trans. Ethn. Soc.* (New Series), vol. vii. p. 194.
[3] Sonnerat, *Hist. Univ. des Voy.*, t. xxxi. p. 350.—*Lettres Edifiantes*, t. x. p. 23.
[4] Plutarch, *Numa and Lycurgus compared.*
[5] E. de Lavelaye, *De la Propriété*, p. 35.

II. *Marriage by Servitude.*

From all these facts we may evidently conclude that in societies of little or no cultivation the children are left absolutely to the discretion of the parents. The latter, having every possible right over their progeny, consider them as a property, and think it no crime to sell their daughters, pubescent or not, as soon as they constitute a negotiable value. This sale of daughters is even the most widely spread form of primitive marriage, or of what it is convenient to call so. In societies of some degree of civilisation, where exchange-values exist, as domestic animals, stores of provisions, or slaves, the sale of a daughter is argued and debated like any other transaction, and the merchandise is delivered for the price agreed on. In a more primitive state of civilisation, when man subsists chiefly by the chase, or fishing from day to day, and is not always rich enough to buy a wife, the exchange-values considered equivalent of the required daughter are often replaced by a certain amount of labour or services rendered to the parents, and hence results a special form of marriage —marriage by servitude.

This mode of marriage was not uncommon with the Indians of North America. Sometimes the future husband engaged to serve the parents of the girl for a fixed period of time. He hunted for them, hollowed out or constructed canoes, or where agriculture was practised he cultivated the land.[1] Sometimes the husband was not entirely enslaved; he had only to give to his wife's parents a part of the produce of the chase, and he was not exempt from this tribute till a daughter was born to him, who became, by way of indemnity, the property of the maternal uncle of his wife.[2]

Often during the time of his voluntary servitude the husband remained in the family of his wife, and he actually took the position there of a sort of slave.[3]

In the more civilised societies of Central America the custom of marriage by servitude was nevertheless preserved. Among the Kenaï, the future husband went every morning

[1] Lafitau, t. 1er. pp. 557-560.
[2] Domenech, *Voy. pittoresque*, etc., p. 508.
[3] Lafitau, t. 1er. pp. 557-560.

for a whole year to the house of the parents of his betrothed to prepare the food, carry the water, or heat the bath-chamber; then, when his year of service was over, he took away the daughter.[1] In Yucatan the son-in-law was obliged to serve his father-in-law for two or three years. This manner of acting even became a general custom which it was considered immoral not to follow.[2] With the Mayas, the bridegroom was required to build himself a house opposite that of his future father-in-law, and he lived there five or six years, giving his labour during all that period.[3]

Although more common in America than elsewhere, the custom of marriage by servitude is not confined to that continent. The Limboos and the Kirantis of Bengal often buy their wives by giving a certain term of labour to the father, in whose house they remain until the payment is finished.[4] We know also that marriage by servitude is not peculiar to savages of inferior races, since the Bible informs us that Jacob only espoused Leah and Rachel at the price of fourteen years' service. Without dilating further on marriage by servitude, I shall remark by the way that it had for its result the placing of the husband in a subordinate position towards the woman, or at least towards the family of the woman, in which he had so long been treated as a servant. A certain independence was gained by the wife who had been acquired in this manner. Thus, with the Kenaï, of whom I was speaking just now, the woman had the right to return to her father if she was not well treated by her husband.[5] Marriage by servitude had therefore, in fact, a moral side; it lessened the subjection, always hard and sometimes cruel, to which woman is liable in nearly all savage or barbarous societies.

III. *Marriage by Purchase.*

Marriage by purchase is much more widely spread than marriage by servitude or service. All over the world, in all races and in all times, wherever history can inform us, we find well-authenticated examples permitting us to affirm that

[1] H. Bancroft, *Native Races of the Pacific States*, etc., vol. i. p. 134.
[2] *Id.*, *loc. cit.*, vol. ii. p. 606.
[3] *Id.*, *ibid.* vol. i. p. 662.
[4] *Id.*, *ibid.* vol. i. p. 104.
[5] *Id.*, *ibid.* vol. i. p. 134.

during the middle age of civilisation the right of parents over children, and especially over daughters, included in all countries the power to sell them. I purpose to consult on this subject all the great races of mankind, and confirmatory facts will not be wanting; I shall, indeed, have to limit myself in giving them.

Among the Hottentots and the Kaffirs, the exchange value of the country being cattle, the daughters are paid for in cows or oxen, and the price of the merchandise varies according to the fluctuations of demand and supply. Among the Great Namaquois Levaillant saw a conjugal affair concluded very cheaply, for a single cow;[1] but this price may be increased tenfold.[2] With the Corannas, the man makes his request leading an ox to the door of the girl. If he is allowed to kill the animal, it means that his demand is granted. In the contrary case, the suitor is sent away and sometimes stoned.[3] Hottentot girls are sometimes sold in their own tribe, and sometimes in a neighbouring one. At the time of Burchell's travels there was a lively traffic in girls between the Bachapin Hottentots and the Kora Hottentots.[4]

According to Livingstone, among the Makalolo Kaffirs the price paid to the father had also for its object the redemption of the right of ownership which he would otherwise have in the children of his daughter.

In Central Africa, in Senegambia, in the valley of the Niger, with the Mandingoes, the Peuls, etc., marriages are reduced to the sale of the girl by those having the right.[5] With the Timannis, says Laing, the pretendant first brings a jar of palm wine, or a little rum, to the parents. If his demand is favourably received the presents are accepted, and the giver is invited to return, which he does, bringing a second jar of wine, some kolas, some measures of stuff, and some chaplets. All is then definitely concluded, and they announce to the girl that she is married.[6]

[1] Levaillant, *Hist. Univ. des Voy.*, t. xxiv. p. 348.
[2] Burchell, *Hist. Univ. des Voy.*, t. xxvi. p. 486.
[3] Campbell, *Hist. Univ. des Voy.*, t. xxix. p. 363.
[4] Burchell, *ibid.* t. xxvi. p. 486.
[5] *Neue Missionsreise in Sud-Afrika*, vol. i. p. 317.
[6] Laing, *Hist. Univ. des Voy.*, t. xxviii. p. 31.

With the Moors of Senegambia conjugal sales are effected in nearly the same manner; however, the girl has a right to refuse, but on condition of renouncing marriage for ever, on pain of becoming the slave of her first suitor in the case of an attempt to marry her to another.[1] This right of refusal, limited as it is, already constitutes a notable degree of progress which does not always exist in much more civilised countries. We must place by the side of this some other customs in force here and there in this region of Central Africa, confining ourselves to the Sahara and to where the population is strongly mixed with Berber blood. It is to be remembered that in nearly all Berber countries the subjection of women is or has been a little less severe.

At Sackatoo the daughter is generally consulted by her parents as a matter of form only, for she never refuses. In the same district the young people first obtain a mutual consent, and then that of their parents. Among rich people the husband settles on his future wife a dowry consisting of female slaves, sculptured calabashes filled with millet, dourra, and rice, of cloth, bracelets, toilet articles, of stones for grinding the grain, mortars for pounding it, etc. All these presents are borne in great pomp, on the heads of female slaves, to the husband's house when the wife enters it for the first time.

At Kouranko the young girls are often sold by their parents as dearly as possible to rich old men. They are forced to submit, but, once widows, they resume their liberty and recoup themselves by choosing at will a young husband, on whom they lavish their care and attentions.[2] Now we shall find that in many civilisations relatively advanced, widowhood even does not gratify the woman with a liberty of which she is never thought worthy.

At Wowow and at Boussa the emancipation of woman is markedly greater. It is no longer the father, it is the grandmother who gives or refuses her grand-daughter, and if the grandmother is dead, the girl is free to act as she likes.[3] This fact, if correct, is infinitely more curious than all the others, and it ought to rejoice the sociologists full

[1] Clapperton, *Second Voyage*, vol. ii. p. 86.
[2] Laing, *Hist. Univ. des Voy.*, t. xxxviii. p. 71.
[3] R. J. Lauder, *Hist. Univ. des Voy.*, t. xxx. p. 244.

of faith, who admit in a distant antiquity the existence of a matriarchal *régime* assigning to woman the chief place in the family. But let us continue our inquiry.

In Polynesia marriage by purchase was habitual. In New Zealand the man bought the girl, and offered presents to her parents.[1]

Generally in Polynesia the suitor offered pigs, stuffs, etc. If his demand was granted, the bargain was quickly concluded; the girl was there and then delivered to the husband; a Polynesian bed was arranged in the house of the bride's father, and the newly-married couple passed the night there. The next day a feast was celebrated, to which friends were invited, and which consisted of several pigs.[2]

At Tahiti temporary marriages were also concluded, and in this case the presents of pigs, stuffs, pigeons, etc., varied in amount according to the length of the union.[3]

But, in spite of the sale, the Polynesian father always retained over his daughter the prior right of ownership, and when the presents seemed to him to be insufficient, he took back the merchandise to let or sell it to a more generous lover. If a child was born, the husband was free to kill the infant, which was done by applying a piece of wet stuff to the mouth and nose, or to let it live, but in the latter case he generally kept the wife for the whole of her life. If the union was sterile, or the children put to death, the man had always the right to abandon the woman when and how it seemed good to him.[4] She was a slave that he had bought, and that he could get rid of at will.[5]

On the great American continent, from north to south the custom of the sale of the daughter is common to a great number of peoples. With the Redskins female merchandise is generally paid for in horses and blankets. When the daughter had been sold to a white man and then abandoned, as frequently happened, the parents resumed possession of her, and sold her a second time.

[1] Duperrey, *Hist. Univ. des Voy.*, t. xviii. p. 157.
[2] Moerenhout, *Voy. aux îles*, etc., t. ii. p. 62.
[3] Cook (*Third Voyage*), *Hist. Univ. des Voy.*, t. x. p. 232.
[4] *Id.*, *ibid.* t. x. p. 232.
[5] Domenech, *Voy. pittoresque*, etc., p. 511.

In Columbia what was most prized was the aptitude of the woman for labour, and her qualities as a beast of burden were worth to her parents a greater or less number of horses.[1]

Among the Redskins of northern California the girls were bought and sold like any other articles, and there was no thought of consulting them in the matter. The price was paid to the father, and the girl was led off simply as if it were a horse-sale. Poor suitors naturally had to give way to rich ones, and hence all the opulent old men obtained all the beautiful young women.[2] There was no nuptial ceremony. However, with the Modocs, the conclusion of the business is marked by a feast, but the newly-married couple take no part in it.

The Redskin parents do not always entirely abandon their married daughter, and if she is too ill-treated by her owner, they have the right to take her back, and then of course to sell her to some one else.[3] Socialist customs sometimes co-exist with these gross conjugal ones. The nuptial abode is often prepared by the tribe, or, as in Columbia, the friends join in paying to the father the price of the daughter.[4] The Californian suitors sometimes obtain a wife on credit; but then the man is called "half-married," and is forced to live as a slave with the parents of the girl until he has concluded the payment, for there is no essential difference between marriage by servitude and marriage by purchase. In America, as elsewhere, morality is simply the expression of habits and needs, and thus the purchase of the wife has ended by becoming an honourable thing; and among the Californian Redskins the children of a wife who has cost nothing to her husband are looked down on.[5]

The Papayos of New Mexico are not content with selling their daughters by private contract; they put them up to auction.[6] As for the inhabitants of those curious Neo-Mexican phalansteries called *pueblos*, as they are much more advanced than the greater part of their American

[1] Bancroft, *Native Races of Pacific*, etc., vol. i. p. 276.
[2] *Id.*, *ibid.* vol. i. p. 349.
[3] *Id.*, *ibid.* vol. i. p. 412.
[4] *Id.*, *ibid.* vol. i. pp. 276-349.
[5] *Id.*, *ibid.* vol. i. p. 349.
[6] *Id.*, *ibid.* vol. i. p. 549.

congeners, their matrimonial customs are less gross; and the suitor, when accepted by the parents, tries to charm his bride by daily serenades lasting for hours—a rare thing in savage countries.[1]

With the half-civilised tribes of Guatemala and Nicaragua conjugal unions were also determined according to the presents made to the parents, and in Guatemala the young people were both kept in ignorance of the affair until the last moment.[2] In Nicaragua, however, there existed a curious exception in certain towns, where at a particular festival the young girls had the right to choose their husbands freely from among the young men present.[3]

With the Moxos and the Guaranis the price paid to the parents is still the decisive reason of the marriage.[4] However, the Guaranis also exact from the husband proofs of virile qualities in the chase and in war.[5] The struggle for existence is still severe, and in order to keep one or more wives a man must be able not only to feed but to defend them.

The Mongols of Asia buy their wives exactly like the Mongoloids of America, of whom I have just spoken.

Among the nomad Mongols, the Tartars of northern Asia, the parents arrange the marriages with absolute authority, and without consulting the parties more especially interested. The bargain is sharply debated between the parents, and the price to be paid by the husband or his family is very precisely settled; the future couple are not even informed of it, their sentiments, their desires, or dislikes, are not considered in the least. The price of the girl is paid in cattle, sheep, oxen, or horses; in pieces of stuff, in brandy, in butter, in flour, etc. Everything being agreed on, the contract of sale is drawn up before witnesses, but the girl is only delivered to the purchaser after the ceremony of marriage, which, as we have previously seen, takes the form of capture.[6]

[1] Bancroft, *Native Races*, vol. i. p. 549.
[2] *Id.*, *ibid.* vol. ii. pp. 666, 667.
[3] *Id.*, *ibid.* ii. p. 667.
[4] *Lettres Edifiantes*, t. x. p. 202.
[5] A. d'Orbigny, *L'homme Américain*, t. ii. p. 307.
[6] Timkowski, *Hist. Univ. des Voy.*, t. xxxii. p. 332.—Huc, *Travels in Tartary*, vol. i. pp. 298, 299.

The Turcomans have customs very similar to those of the Tartars. With them the price of the girl is chiefly reckoned in camels, and it generally takes five to pay for a girl; but as in their eyes the woman is not an object of luxury, as she not only has to manage the housekeeping but to manufacture articles which have an exchange value, and which are profitable to the family, experienced women and widows, provided they are passable, are much more sought for in the conjugal market than young girls. It is no longer five camels, but fifty, or even a hundred, that must be paid for a widow still in good condition.[1] If the suitor cannot immediately get together the price of the woman he covets, he has recourse to marriage by capture, and takes refuge with his bride in a neighbouring camp.

A settlement is always effected, matters are compounded, and the ravisher engages to pay a certain number of camels and horses, which he generally procures by marauding on the frontiers of Persia. It is a veritable debt of honour for him, and he must pay it with the least possible delay.[2]

These barbarous customs of Mongolia are naturally softened in China, but without any essential change in their main features. There, as well as in Tartary, the young girl is considered as the property of her parents, and her training is so perfect that she has not the slightest desire to be consulted before being married, or rather sold, for ready money.[3] In the Chinese family, daughters count for so little value that they are only called by ordinal numbers—first-born, second-born, etc.—to which is added a surname.[4] The price of the daughter when purchased is paid to the parents in two separate portions—the first on the conclusion of the agreement and the signing of the contract, and the other on the wedding-day.[5] Marriage by capture has naturally gone out of use in the old civilisation of China, but the trace of it still remains in the ceremonial,

[1] Fraser, *Hist. Univ. des Voy.*, t. xxxv. p. 118.
[2] Burnes, *Hist. Univ. des Voy.*, t. xxxvii. p. 270.
[3] *Lettres Edifiantes*, t. x. p. 138.—Huc, *Chinese Empire*, vol. ii. p. 255.
[4] Comte d'Hérisson, *Journal d'un interprète en China*, p. 7.
[5] Huc, *Chinese Empire*, vol. ii. p. 256.

for the bride is lifted over the threshold of the conjugal dwelling, as was the custom in ancient Rome.

It has appeared so natural to parents all over the world to dispose of their daughters as they chose, that many of the aborigines of India do nearly the same as the Mongols. The daughters are sold by the parents among the Kolhans, the Bendkars, the Limboos, the Kirantis, the Moundas, the Santals, the Oraons, the Muasis, the Birhors, the Hos, the Boyars, the Nagas, the Gonds, etc.[1] The price of the girl varies from three to fourteen rupees, or is reckoned in head of cattle or measures of rice. Sometimes female merchandise is rare and dear, for in some countries female infanticide has long prevailed; it may happen, too, that daughters are condemned to celibacy, as with the Hos,[2] or, as with the Nagas, that marriages are delayed, and that the bridegroom must often submit to marriage by servitude.[3] Sometimes, again, the girls are carried off, as happens among the Kolhans, by the impatient bridegrooms, and, after the rape, arbitrators negotiate a settlement.[4] It should be remarked, by the way, that with the Nagas marriage by servitude has its ordinary effect, that of abasing the husband and raising the wife; and, in fact, among these races, although the wife performs severe labour, she is treated as the equal of her husband.[5]

In some aboriginal tribes of India we even find matriarchal customs. Thus with the Pani-Koechs the husbands leave to their very industrious wives the care of their property. In marrying, a man goes to live with his mother-in-law, and obeys her as well as his wife. Moreover, in this tribe the mothers negotiate the marriages; the fathers have nothing to do with them.[6]

Among the Yerkalas the maternal uncle has the right to claim for his sons the two eldest daughters of his sister, or to renounce them for an indemnity of eight images of idols.[7]

Money, always money! With all peoples and races marriage is often reduced to a pecuniary question. In this

[1] Dalton, *Descriptive Ethnology of Bengal*, passim.
[2] *Id.*, *ibid.* p. 190.
[3] *Id.*, *ibid.* p. 41.
[4] Dalton, *loc. cit.* p. 192.
[5] *Id.*, *loc. cit.* p. 41.
[6] *Id.*, *ibid.* p. 91.
[7] Schortt, *Trans. Ethn. Soc.* (New Series), vol. vii. p. 187.

respect the Berbers, the Semites, and the Aryans are not distinguished from other human types. With certain Touaregs of the Sahara, says Duveyrier, it is the daughter herself who indemnifies the father, and it is after the old Italian manner, *more tusco*, that she gains the price of enfranchisement which is necessary for her marriage. "The father, before the marriage of his daughter, exacts from her the reimbursement, levied on her body, of what she has cost her family . . . and the girl, dishonoured according to our ideas, but ransomed according to local ideas, is all the more sought after, the greater her success in the commerce of her attractions."[1]

In contrast to the Touaregs, the Semites, Hebrews, and Arabs, attached and still attach an enormous value to the virginity of the bride; but marriage was not and is not any the less for them a simple sale. The history of Jacob's marriage has already shown us that marriage by servitude was practised by the ancient Hebrews. In later times the consent of the woman became necessary, which is a great step in advance, but the husband none the less bought his wife in some way or other.[2]

With contemporary Arabs marriage is a simple sale, without any disguise. An Arab jurist gives us the formula of it, which is very clear. It is as follows: "I sell you my daughter for such a sum." "I accept." The same author says elsewhere: "The woman sells in marriage a part of her person. In a purchase men buy an article of merchandise; in a marriage they buy the field of procreation."[3] It would be impossible to speak more plainly. Nevertheless, the consent of the woman is necessary; it is she who is supposed to sell herself, and the price of the bargain constitutes her dowry. It was the same with the Hebrews.

Whatever may have been their religion, the greater number of the Aryan peoples have also considered marriage as a commercial transaction. The Afghan Mussulmans buy their wives, and these are regarded as a property, so much

[1] Duveyrier, *Touaregs du Nord*, p. 340.
[2] Wake, *Evolution of Morality*, vol. ii. p. 68.
[3] Sidi Khélil, *Précis de jurisprudence musulmane*, trad. Perron (quoted by E. Meynier) in *Études sur l'Islamisme*, pp. 152, 156.

so that in case of widowhood they cannot re-marry, unless the second husband indemnifies the family of the first.[1]

In Brahmanic India the daughter is also bought from the parents. A curious verse of the Code of Manu tells us how the purchaser was indemnified in the case of substitution of another person: "If, after having shown a suitor a young girl, whose hand is granted to him, another is given him to wife, and secretly brought to him, he becomes the husband of both for the same price; such is the decision of Manu."[2] Things have not much changed at present. "When they wish to signify that they are going to be married," says an editor of *Lettres édifiantes*, in speaking of the Hindoos, "they generally say that they are going to buy a wife." However, the parents do not appropriate the entire sum paid by the purchaser; a great part of it goes to buy jewels for the bride.[3] The ancient Malays of Sumatra had solved the conjugal problem in three different ways. Sometimes the man bought and led away the woman, according to the universal custom; sometimes the woman bought the man, who then came to live with her family; sometimes the two were married on a footing of equality.[4] We must note in passing that this last matrimonial form is very exceptional.

Throughout Europe, as well in Greco-Latin antiquity as among barbarians, the young girl has formerly been considered as a negotiable property, and marriage as a sale.

The Sagas tell us that the Scandinavian fathers married their daughters without consulting them—after the manner of savages—and received an indemnity from the son-in-law.[5]

With the Germans the daughter could not marry without the authorisation of her father or of her nearest relative, who first received the earnest money from the bridegroom;[6] as for the bride, she received the *oscle*, or price of the first kiss, and then the *morgengabe*, which constituted her dowry.

[1] Elphinstone, *Picture of the Kingdom of Cabul*, vol. i. p. 168.
[2] *Code of Manu*, book viii. p. 204.
[3] *Lettres édifiantes*, t. xiv. p. 382.
[4] Marsden, *Hist. of Sumatra*, p. 262.
[5] Nials, *Saga*, vol. i. pp. 9, 10.
[6] Rambaud, *Hist. civil française*, p. 107.

In return, the German widow, like the Afghan widow, was the property of the parents of her husband, and could not re-marry without their authorisation.[1]

In primitive Greece the daughter was purchased either by presents to the father or by services rendered to him.[2] The father could marry his daughter as he thought well, and in default of a son could leave her by will, with the heritage of which she formed a part, to a stranger.[3]

At Rome also the daughter was the property of her father, and until the time of Antoninus the father had the right to re-marry her when the husband had been absent three years.[4] Marriage by purchase had certainly been the primitive form of the conjugal contract. In reality the *confarreatio*, a solemn and religious union in the presence of ten witnesses, was a patrician marriage. The *usus*, or the consecration of a free union after a year of cohabitation, strongly resembles the Polynesian marriage. But the most common conjugal form, the one which succeeded the *usus*, and surely preceded the *confarreatio*, was marriage by purchase, the *coemptio*.

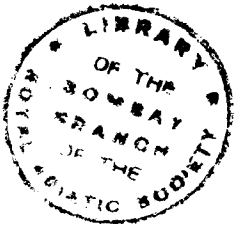
Coemption ended in time by becoming purely symbolic; the wife was delivered to the husband, who, as a formality, gave her a few pieces of money; but the ceremony is none the less eloquent, and it proves clearly that in principle the woman had been, at Rome as elsewhere, assimilated by the parents to a thing, to a venal property. When at Athens and at Rome an effort was made to give the married woman a less subordinate position, nothing more was done than opposing money to money by inventing the dowry marriage; and hence resulted other inconveniences, on which Latin writers have largely dilated, and which we can easily study to-day from life. But for the present I must not speak of them. It suffices to have proved that all over the earth, in all times and among all races, marriage by purchase has been widely practised.

Now, the custom of marriage by purchase has a very clear and very important signification from a moral and social

[1] *Hist. Succes. des Femmes.*
[2] Aristotle, *Politics*, vol. ii. p. 8.
[3] Legouvé, *Hist. Mor. des Femmes*, p. 86.
[4] Plautus, *Stichus.*—Laboulaye, *Droit romain.*

point of view. It implies a profound contempt for woman, and her complete assimilation to chattels, to cattle, and to things in general. On this point the Roman law leaves no room for ambiguity, since it makes no essential difference between the marital law and the law of property. In regard to the woman, as in regard to goods, possession or use, continued for a year, gave a right of ownership. When applied to things, this possession is called *usucapion;* applied to the woman, it is called *usus.*[1] The difference between the terms is slight; between the facts there is none. In reality the wife and the child, especially the female child, have been the first property possessed by man, which has even implanted in the savage mind the taste for possession, and the pretension to use and abuse the things left entirely to his mercy. At Rome this became by the *jus quiritium*, for the woman the *manus* of the husband, and for property the *jus utendi et abutendi* of the proprietor. But this abuse, and this use, nearly always equally an abuse also, have contributed not a little to deprave man and to render him, from the origin of societies until our own day, refractory to ideas of equity and justice, especially in what relates to the condition of woman.

[1] R. Cubain, *Lois civiles de Rome*, p. 181.



CHAPTER VIII.

PRIMITIVE POLYGAMY.

I. *Polygamy in Oceania, Africa, and America.*—Polygamy and sociability—Polygamy in Australia, in New Caledonia, and at Fiji—The legitimate wife and concubines at Fiji — Polygamy among the Hottentots and Kaffirs—Economic reasons of polygamy in Africa—Brutality of husbands on the Gaboon—Polygamy limited by the law of supply and demand—Its effects on the morality of women—Commercial fidelity—Mumbo Jumbo—Love unknown in black Africa—Legal marriage with the Bongos at Madagascar—Hierarchical polygamy at Madagascar—Polygamy in Polynesia, in America—Jealousy unknown to the female savage—The sister-wives among the Redskins—Religion sanctifies polygamy—Monogamic tendencies in America.

II. *Polygamy in Asia and in Europe.* — Polygamy among the aborigines of India, in Bootan, among the Ostiaks and the Battas—Universality of primitive polygamy—Polygamy of the ancient Peruvians, Chinese, and Vedic Aryans—Polygamy among the Gauls and the Germans—Causes of primitive polygamy—Its evolution.

I. *Polygamy in Oceania, Africa, and America.*

We have seen that in the animal kingdom species are sometimes monogamous, sometimes polygamous, but that in general a gregarious life, a life in association, favours polygamy. Now, man is surely the most sociable of amimals, therefore he is much inclined to polygamy, like the great anthropoid apes, with whom our primitive ancestors must have had more than one analogy. We have already spoken of the causes which in human societies of the earliest ages disturbed the normal relation of the sexes, or the approximate equilibrium between the number of men and that of women. We have seen how savage life rapidly

uses up the men to such a degree that often, in spite of the custom of female infanticide, there is still an excess of women sufficient to impose polygamy. Although primitive morality may not think in the least of blaming the plurality of wives, it yet happens that this polygamy, to which all men aspire in a savage country, is spontaneously restricted; and, as with chimpanzees, and for the same reasons, it becomes, in fact, the privilege of a small number of the strongest and the most feared, the chiefs, the sorcerers, or the priests, when there are any.

In Australia, for example, the adult men take possession of the women of all ages, and in consequence the greater number of young men cannot become proprietors of a woman before the age of about thirty years.[1]

Enforced celibacy is, besides, softened by the complaisance of the men already provided for, the husbands, if we may so call them, who are generous to the other men, and much more jealous of their rights of property than of their conjugal rights. It is easy to have an understanding with them, and, with the aid of a suitable present, to induce them to lend their wives. In New Caledonia the chiefs and rich men only can indulge in the luxury of polygamy, and in this archipelago the plurality of wives has already the character that it nearly always assumes in a primitive country. If the New Caledonians ardently desire to have several wives it is not generally with a sensual aim, for among the Canaks the genetic appetite is little developed; their reasons are of quite another kind. Neither slavery nor domesticity yet exist in New Caledonia. However, agriculture is already practised there, and this requires hard labour, from which the men, especially the chief men, like to exonerate themselves. Now, it is polygamy that furnishes the Canaks with servile labour, which they cannot do without; it exactly replaces slavery. Therefore, every man, of however little importance he may be, procures a number of women in proportion to the extent of the land he has in cultivation, and also to the figure he must make in the world. We shall find this servile polygamy in many other countries, notably among the Fijians, who resemble the New Caledonians, but at Fiji polygamy had already

[1] Baudin, *Hist. Univ. des Voy.*, t. xviii. p. 34.

evolved and become complicated. It was accompanied by concubinage. As we shall see later, this is generally the case. Nowhere do we find men passing abruptly from polygamy to monogamy, and long before arriving at the latter, when first custom and then law restrains and regulates the loose polygamy of the earlier ages, the change is only at first effected in the form; a man has a small number of wives, who, with their children, enjoy certain privileges, but by the side of these titular wives he possesses concubines in greater or less number. In this manner everything is reconciled—morality with sensuality, and the family with the interests of property.

This *régime* was already in force among the Melanesians of the Fiji Isles, where the chiefs, living in great state, acquired in one way or another three or four hundred women, of whom the greater number filled only the position of servants to the master, and at the same time of concubines, who were at the disposition of the warriors or of the guests. The wives whose children inherited were very few in number. They were daughters of chiefs, and their situation, although less degraded than that of the concubines, was still very humble. Not only did they resign themselves without difficulty to polygamy, but they were subjected to a singular duty—that of rearing for their husband a chosen concubine. The fact is curious, and worth the trouble of narrating. "The bride takes with her a young girl who is still a child, but who promises to be beautiful, and who has been carefully selected from the lower class of the people. It is a virgin destined for her husband. She brings her up with the tenderest solicitude, and when the girl is marriageable, the queen, on an appointed day, undresses her, washes her carefully, and even pours perfumed oil on her hair, crowns her with flowers, conducts her thus naked to her husband, presents her to him, and retires in silence."[1] Excessive as it seems to us, this absolute resignation is quite natural among savages.

In primitive countries the married woman—that is to say, the woman belonging to a man—has herself the conscience of being a thing, a property (it is proved to her often and severely enough), but she does not think of retaliating,

[1] Moerenhout, *Voy. aux Îles*, etc., t. ii. p. 235.

especially in what concerns the conjugal relations. Moreover, as her condition is oftenest that of a slave overburdened with work, not only does she not resent the introduction of other women in the house of the master, but she desires it, for the work will be so much the less for herself. Thus among the Zulus the wife first purchased strives and works with ardour in the hope of furnishing her husband with means to acquire a second wife—a companion in misery over whom, by right of seniority, she will have the upper hand.[1]

In consequence of this the greater number of the men in Kaffirland have two or three wives, and hence a certain scarcity of feminine merchandise in the country; the young men have difficulty in providing for themselves, and many girls are sold from infancy.[2] The same customs prevail with the Hottentots; and both Kaffirs and Hottentots esteem the monogamic preaching of the Christian missionaries as very impertinent, and on this point both men and women are agreed.[3]

Along the whole course of the Zambesi, says Livingstone, the number of wives are the measure of a man's riches, and the women are the first to find this quite natural.

It is important to observe that in savage societies the woman could not live independently; for her, celibacy is synonymous with desertion, and desertion would mean a speedy death. This is even the reason of the levirate, of which I shall have to speak later.

As for all the negroes of Africa, whatever the degree of their civilisation or savagery, they have not even a suspicion of the monogamic *régime*. But, in Africa also, sensuality is only one of the secondary causes of the plurality of wives so strongly desired by all the blacks. Their polygamy is chiefly founded on economic motives. At the Gaboon,[4] says Du Chaillu, the supreme ambition of a man is to possess a great number of wives. Nothing is of more value to him, for they cultivate the ground, and their strict duty is to

[1] Waitz, *Anthropology*, vol. i. p. 299.—Steedman, *Wanderings, etc., in South Africa*, vol. i. p. 240.—Delegorgue, t. 1er. p. 154; t. ii. p. 231.
[2] Campbell, *Hist. Univ. des Voy.*, t. xxix. p. 357.
[3] Burchell, *ibid.* t. xxvi. p. 204.
[4] Du Chaillu, *Voy. dans l'Afrique equatoriale*, pp. 376, 377.

serve him and furnish him with food. The wife is always purchased from her father at a price agreed on, and often from her earliest infancy. In this case she is placed under the care of the husband's chief wife. The husband-proprietor does not interfere at all with the agricultural labour executed by the wives; he only requires them to supply him with food. If he has bought them, it is merely as a profitable investment. He consequently treats them as slaves, or as domestic animals, and has no scruple in lashing them with a whip for nothing at all, and thus causing ineffaceable scars. "I have seen very few women," says Du Chaillu, "who had not traces of this kind on their bodies."

The whip which serves for these conjugal corrections has a double thong, made of hippopotamus or sea-cow hide. "You should hear," says the traveller, "the worthy husband cry out—'Ah, wretch! do you think I have bought you for nothing?'"[1] The Gaboon tribes, of whom Du Chaillu speaks, are reckoned the least civilised of negroes; but even among the least gross of African races the conjugal *régime* and the degree of subjection imposed on women are scarcely lessened.

At Tchaki, and at Badagry, etc., when Clapperton spoke of English monogamy to the natives, all his auditors, without distinction of sex, burst into a laugh,[2] so absurd did the thing appear to them. Throughout Africa the number of a man's wives is only limited by his resources. If, as Schweinfurth tells us, among the Bongos of the upper Nile, a man rarely has more than three wives, it is simply on account of the strict law of supply and demand; for a woman costs no less than ten iron plates, each weighing about two pounds, to which must be added twenty iron spear heads, all precious articles and not easily procured.[3] At Bornou also men in easy circumstances have seldom more than three wives; and the poor have to content themselves, whether they will or not, with monogamy.[4] But among the negroes of Kaarta and the Fantis of the coast of Guinea polygamy is excessive. In Kaarta a private

[1] Du Chaillu, *loc. cit.* p. 377. [2] *Second Voyage*, etc., pp. 18-48.
[3] *The Heart of Africa*, vol. i. p. 301.
[4] Denham and Clapperton, *Hist. Univ. des Voy.*, t. xxvii. p. 437.

individual often has ten wives and as many concubines; but princes or knights often have threefold or even tenfold that number.[1] In consequence of this, about a third of the inhabitants are of princely or royal blood. As for the Fantis, polygamy is a source of riches, not only through the labour of the women, but also through the sale of the children, of whom a large and profitable trade is made.[2] This trait of morals is not in the least peculiar to them; throughout black Africa the right of the father of a family includes that of selling the children, and he exercises it without scruple.

Naturally the last sentiments we may expect to find in African households are those of delicacy or moral nobility. Humble to servility in presence of the master, the women give the rein to their shameless excesses as soon as they can do it without danger.

In Bornou a wife never approaches her husband without kneeling.[3] When a Poul orders one of his wives to prepare his supper, which implies that the master desires her company for the night, this signal favour is received with transports of joy. The chosen wife hastens to obey, and when the repast is ready she proudly goes to seek the master, thus humiliating her female colleagues, who retreat in confusion to their cabins to await their turn.[4] But all this abject behaviour is merely by compulsion, and the women recoup themselves well for it whenever they have the chance.

The poor women of the Gaboon, who are lacerated by whips for no offence, do not understand chastity, and their intrigues constantly provoke conflicts and *palavers* between the men of the villages.[5] The obscenity of the Monboottoo women astonished Schweinfurth, well acquainted as he was with negro customs.[6] The Bambarra women easily forget conjugal fidelity for a bead necklace, a fine waist-cloth, etc.; and, as in so many other countries, the husband-proprietors

[1] Gray and Dockard, *ibid.* t. xviii. p. 373.
[2] Brodie Cruikshank, *Sojourn of Eight Years on the Gold Coast.*
[3] Denham and Clapperton, *Hist. Univ. des Voy.*, t. xxvii. p. 437.
[4] Mollien, *ibid.* t. xxviii. p. 439.
[5] Du Chaillu, *loc. cit.*, pp. 378-435.
[6] *The Heart of Africa*, vol. ii. p. 91.

have no scruple in hiring out their wives for a sufficient price.[1]

Nevertheless, unauthorised adultery is cruelly punished throughout Africa; but fear is powerless to ensure to the negro husbands the purely commercial fidelity they exact from their wives, and therefore, in order to correct feminine morals, they have recourse in certain parts to fantastic methods—to the *Mumbo Jumbo* which Mungo Park describes.[2] Strangely attired and unrecognisable, a singular personage, doubtless a sorcerer, appears in the evening after being called for by frightful howlings in the woods, and first goes to the spot where the inhabitants are accustomed to assemble to talk at their ease. This coming is the signal for songs and dances, which last into the middle of the night. Then the *Mumbo Jumbo* designates the guilty or indocile woman. The latter is immediately seized, stripped, bound to a stake, and vigorously beaten by the *Mumbo* himself, amid the acclamations and laughter of the assembly, and especially of the other women.

In all negro Africa the husbands are generally strangers to the jealousy of honour which exists among the intelligent husbands of civilised countries. They do not care for moral fidelity, based on affection and free choice. The Kaffir woman, Schouter tells us, is the ox of her husband. A Kaffir said one day, speaking of his wife, "I have bought her, therefore it is her duty to work."

"The negro," relates another traveller (Monteiro), "knows neither love, affection, nor jealousy. During the many years that I have spent in Africa I have never seen a negro manifest the least tenderness for a woman—put his arms around her, give or receive a caress, denoting some degree of affection or love on one side or the other. . . . They have no word in their language to signify love or affection."[3]

A French traveller says also of the Malagasies, "Modesty and jealousy are two sentiments very little developed

[1] Raffenel, *Nouv. Voy. aux Pays des Nègres*, t. 1er. p. 402.
[2] *Hist. Univ. des Voy.*, t. xxv. p. 58.
[3] Herbert Spencer, *Sociology*, vol. ii. pp. 284-293.

among the Malagasies of both sexes and all ranks. They push licence very far in their manners, but quite unconsciously."[1]

Throughout black Africa, indeed, marriage does not exist, at least in the sense we attach to the word. It is not a civil institution, much less a sacrament; it is a bargain, delivering the woman to the mercy of the buyer. Here and there, however, we see dawnings of legal marriage—that is to say, a contract sanctioned by civil authority. Among the Bongos of the upper Nile, for example, a man who wishes to procure a certain woman generally applies to the chief or to some dignitary, who enforces his demand.[2]

With the Malagasies, where the social organisation is much more complex and *quasi* feudal, there is already a veritable civil marriage. The future pair, accompanied by their parents, go before the judge or the chief of the village, declare their intentions, pay the *Hasina*, or matrimonial tax, and the union is concluded. As is the case in many countries, Malagasian polygamy already tends towards monogamy. At Madagascar, as in China, rich men have one chief wife, who has a house to herself and other privileges; but by the side of the titular wife there are lesser wives.[3] I shall have to return to this hierarchical polygamy, which forms a sort of evolutionary connecting link between primitive polygamy, subjecting all the wives equally before their owner, and monogamic marriage. But for the present I must pursue my summary inquiry through the lands of primitive polygamy.

In the whole of Polynesia polygamy was general and unlimited. There, again, the number of wives was strictly in proportion to rank and riches.[4] There were, however, examples of voluntary monogamy[5] among the chiefs, and a much larger number of monogamists, in spite of themselves, in the lower classes.[6] In several Polynesian islands polygamy was already evolving towards monogamy; thus,

[1] Dupré, *Trois Mois à Madagascar*, p. 153.
[2] Schweinfurth, *The Heart of Africa*, vol. i. p. 27.
[3] Dupré, *Trois Mois à Madagascar*, p. 153.
[4] Pritchard, *Polynesian Reminiscences*, etc., p. 270.
[5] Th. West, *Ten Years in South Central Polynesia*, p. 270.
[6] Bougainville, *Voyages*, p. 244.

at Samoa,[1] at Tonga,[2] in New Zealand,[3] there existed a chief wife, exempted from hard work, and having pre-eminence over the other wives.

Over all the great American continent polygamy is or has been in force. The Ancas or Araucanos of South America—nomads and robbers—buy very dear wives when they can, and make concubines of all the prisoners procured in their razzias, exactly after the manner of the ancient Arabs. The poor or the feeble among them, as elsewhere, are badly provided, and are frequently reduced to remain celibate,[4] or to have only one wife. For the same reasons, the young men among the Otomacs were often obliged to be contented with an old woman,[5] and the Charruas waited till their first wife grew old before procuring a younger one.[6] Herrero tells us also, that in Honduras forced monogamy was general enough, except, indeed, for the chiefs, who appropriated the women by the right of the strongest.[7] In South America, as in Africa, the women were very far from rebelling against polygamy; for there, also, all the hard work fell to them, and the burden of it was lightened in proportion to the number of labourers. In the tribes that were already agricultural, the Guaranis, for example, the men did nothing to the land but clear off the brushwood and timber; then came the women, who did all the sowing, harvesting, prepared the fermented drink for guests,[8] without mentioning other domestic cares. Such a kind of life is necessarily unfavourable to delicacy, and even amongst civilised people habitual overwork is hardly compatible with refined sentiments. In all countries exclusive love and jealousy suppose not only some moral development, but also a certain amount of leisure and of time and capacity, to think. It is therefore quite natural that the savage woman should seldom pretend to possess a man for herself alone,

[1] Pritchard, *loc. cit.*, p. 372.
[2] Cook (Third Voyage), *Hist. Univ. des Voy.*, t. ix. p. 70.
[3] Dumont d'Urville.
[4] A. d'Orbigny, *L'homme Américain*, t. 1er. p. 403.
[5] *Voyage à la Terre Ferme*, etc., t. 1er. p. 304.
[6] A. d'Orbigny, *loc. cit.*, t. ii. p. 89.
[7] H. Spencer, *Sociology*, vol. ii. p. 282.
[8] A. d'Orbigny, *loc. cit.*, t. ii. p. 308.

and on this point the women of the Redskins of North America think and feel like the Guarani women of Brazil. Thus, with the Omahas, the man hardly ever takes a second wife but with the consent of the first.[1] Often the initiative even comes from her; she goes to find her husband, and says to him, "Marry the daughter of my brother. She and I are of the same flesh." It must be admitted that America is the promised land of the matriarchate, or rather, of maternal filiation; polygamy easily takes an incestuous colour there; the wives of the same man are often relatives, habitually sisters. In about forty of the Redskin tribes, and surely they are not the only ones, when a man marries the eldest daughter of a family, he acquires, by express privilege, the right of taking afterwards for wives all the sisters of the first as soon as they become marriageable.[2] This was the custom of the Omahas, the Cheyennes, the Crees, the Osages, the Black-feet, the Crows, the Spokans of Columbia,[3] the Chawanons of Louisiana, etc.

The custom was not, however, obligatory. The wives were not necessarily relatives, or, at least, not necessarily sisters. Thus, with the Omahas, a man sometimes took as wives an aunt and a niece of his first wife.[4] Among the Californians a man sometimes married not only a group of sisters, but also their mother,[5] and in this respect the Greenlanders imitated their hereditary enemies, the Redskins.[6] But, consanguine or not, polygamy was general among the savage tribes of North America. The possession of a numerous flock of wives placed a man above the common as surely as that of a large fortune does in Europe;[7] religion even sanctified this polygamy, for in all countries it can accommodate itself to the dominant morals. Thus, the Chippeways believe that polygamy is agreeable to the Great Spirit; for it is a means of having a numerous posterity.[8]

[1] J. Owen Dorsey, *Omaha Sociology*, p. 260 (*Smithsonian Institution*, 1885). [2] L. Morgan, *Ancient Societies*, p. 432.
[3] Bancroft, *loc. cit.*, vol. i. p. 277.
[4] J. Owen Dorsey, *loc. cit.*, p. 260.
[5] Bancroft, *loc. cit.*, vol. i. p. 388.
[6] Wake, *Evolution of Morality*, vol. i. p. 255.
[7] H. Spencer, *Sociology*, vol. i. p. 283. [8] *Id.*, *ibid.* vol. ii. p. 285.

Except the habitual consanguinity of the wives, the polygamy of the Redskins has nothing original in it; it is, as elsewhere, the privilege of the rich men.[1] Sometimes also the girls are retained from infancy, and then, as happens with the Noutka-Columbians, the buyer deposits certain valuable articles as security.[2] In these polygamous families of Redskins the harmony is rarely disturbed; and the man, always having the power to repudiate any wife as he may please, only has to command very submissive ones.[3] Here and there certain customs appear which have a shade of monogamy about them; for instance, among the Columbians every wife has her separate habitation, or, at the least, her special fireside.[4] Sometimes there is a chief wife having authority over the other wives.[5] But everywhere the subjection of women in regard to man is extreme. Among the Indians of New Mexico—and these are not by any means the most savage—the women have to prepare the food, tan the skins, cultivate the ground, fabricate the clothes, build the houses, and groom the horses. In return for this, the men, whose sole occupations are hunting and war, beat their wives without pity, and often mutilate and kill them.[6]

II. *Polygamy in Asia and Europe.*

We might already deduce some general ideas from our rapid survey of savage polygamy in Oceania, Africa, and America; but it will be convenient, before we do so, to interrogate the primitive races of Asia and Europe. Doubtless, the description of their conjugal manners and customs, after all that precedes, may seem monotonous; nevertheless, this monotony even is instructive; it proves that in all times and places, in despite of differences of race, climate and environment, the evolution of human groups is subject to certain laws, that the family, marriage, the constitution of property, and social organisation pass through a series of

[1] Domenech, *Voy. pitt.*, p. 509.—Bancroft, vol. i. pp. 168-195.
[2] Bancroft, *loc. cit.*, p. 511.
[3] Domenech, *loc. cit.*, p. 511.
[4] Bancroft, *loc. cit.*, vol. i. p. 277.
[5] *Ibid.* vol. i. p. 511.
[6] *Ibid.* vol. i. p. 511.

necessary phases; in short, that in attempting to construct a science of sociology we are not pursuing a chimera.

I resume, therefore, my enumeration. Among the indigenous tribes of India polygamy is widely spread, without, however, being universal; for each one of these small peoples has evolved, as it has been able, more or less rapidly. Some among them are polyandrous, and even monogamous. Often enough polyandry co-exists with polygamy, the one appearing as moral as the other.

With all these aborigines, marriage, or what we are pleased to call so, is generally concluded by purchase, and the price of the woman naturally oscillates according to the law of supply and demand. Most often it is represented by poultry, pigs, oxen, or cows, given to the parents. From this manner of procuring wives it seems that, there also, polygamy is the luxury of the rich or of chiefs. Among the Mishmis these privileged individuals sometimes possess sixty wives. The Mishmi husbands form a rare exception on one point—they are not at all exacting about the fidelity of their wives; they consider them as slaves or servants, and provided they continue to benefit their masters by their work, the latter willingly shut their eyes to their intrigues.[1]

Among these polygamous tribes, which it would take too long to enumerate, may be counted the Miris, the Dophlas, the Juangs, the Khamtis, the Singphos, etc.

We must again note in certain tribes, the Khamtis, for example, the monogamic pre-eminence of the first wife.[2] It is one of those sociological analogies of which I have already spoken, and it is important to point it out.

Polygamy still prevails with the mountaineers of Bootan, concurrently with polyandry. It is often incestuous; a man willingly marries two sisters, the one an adult, the other younger. But no other incest is recognised or punished except that committed between son and mother.[3]

Farther north, among the Ostiaks, a man feels no repugnance to marrying several sisters,[4] and, in general, polygamy is very widely spread among the nomad Mongols. A Yakout, for example, if obliged to make frequent

[1] Dalton, *Descriptive Ethno. of Bengal*, pp. 12, 16, 19. [2] *Ibid.* p. 8.
[3] *Voy. au Bootan*, by a Hindoo author, in *Revue Britannique*, 1827.
[4] Wake, *loc. cit.*, vol. i. p. 269.

journeys, takes care to have a wife in every place at which he stops.[1]

The polygamic *régime* is also in great honour in the Mongolian archipelagoes of Asia, in the Palos Islands, in the Caroline Islands, etc. Among the Battas of Sumatra it evidently begins to be distasteful to the women, since the polygamous husband is obliged to assign to each of his wives a special hearth, and kitchen utensils of her own, with which she prepares her food apart, or with that of her husband, when she is on duty, and required by the master.[2]

In this chapter I confine myself to primitive polygamy, to that of the grossest savages or barbarians; but there are barbarians of every race and colour, and the roots of all superior civilisations necessarily go far down into primitive savagery. Now we have seen that the polygamic *régime* is prevalent throughout the world among races that are little cultivated; we may hence conclude that the most civilised nations must have begun with polygamy, and, in reality, it has been thus everywhere and always. In the various civilised societies, living or dead, marriage has commenced by being polygamous. It is a law which has few exceptions.

In ancient Peru, the Incas decreed monogamy to be obligatory for the lower classes. The Chinese attribute to Fo-Hi, their first sovereign, the institution of marriage. This legendary king is said to have raised them out of promiscuity. Such also was the *rôle* of Cecrops, in Greece, and the same thing happened in primitive India. About thirty years ago a number of erudite Europeans, especially the mythologists and linguists, were smitten with a blind love for the Indian hymns of the Rig-Veda. They set to work to torture these old Sanscrit texts, naturally obscure, and by subjecting them to a sort of linguistic examination, they wrung from them imaginary revelations. It was decided that a unique and marvellous race, primitively endowed with every virtue and capacity, had sprung up one fine day on some plateau or other of Central Asia. The most enthusiastic of them generously endowed these

[1] H. Spencer, *Sociology*, vol. ii. p. 280.
[2] *Id.*, *ibid.* vol. ii. p. 292.

hypothetical Aryans with superhuman faculties. A French academician believed and declared that from the high plateaus of Pâmir they perceived the sea, distant, however, some hundreds of leagues; he affirms that they understood the "circles of the stars," and were omniscient. It is to be presumed that this model race was of necessity monogamous, since it was perfect. To-day, however, we must demolish all these castles in the air, too lightly built in primitive and chimerical Arya. The antiquity of the Vedic hymns has had to be much shortened, and, if we consent to read them without prejudice, we shall have little admiration for the authors, those gross Aryans, who tried to make their gods drunk in order to obtain cows, and who sacrificed and cut to pieces animals, and perhaps men, on their altars. There is surely room to suppose that their social condition was not more refined than their religion. On this point the information that may be drawn from the Vedic hymns is vague and drowned in the waves of religious effusion. Nevertheless the Rig-Veda speaks of spouses of the gods, and of princes surrounded by their wives, etc. In fact, a document much more precise and more recent, the Code of Manu, abundantly proves that the Hindoos, like all other peoples, have begun by being polygamous.

I do not now insist on this point, as I shall return to it later. In every country the primitive races have practised polygamy, when that has been possible for them. Our European ancestors have not been more scrupulous on this point than our hypothetical Aryan cousins of Central Asia. Cæsar tells us that the Gauls were polygamous, and had the right of life and death over their wives.[1] Tacitus vaunts much the monogamy of the Germans; this moral feature, says he, distinguishes them from other barbarians, but he confesses that certain German chiefs had several wives, and that, as it happens in all barbarous countries, the wife was sold by the parents for presents consisting of oxen, horses, and arms.[2]

Polygamy was so natural to German morals that, long after Tacitus, the Merovingian kings, Clotaire and his sons, for example, still practised it, that Dagobert had three wives, and that Charlemagne himself was bigamous. We

[1] *De bello Gallico*, vi. 19. [2] *Germania*, xviii.

know, too, that Saint Columban was banished from Gaul only for having blamed the polygamy of King Thierry. Let us resign ourselves, therefore, to confess the truth. The white race has no divine investiture. Like all the others, it has sprung from animality; like all the others, it has been polygamous, and we have only to open our eyes to perceive that, in the present day, in countries reputed to be the most civilised, and even in the classes reputed to be the most distinguished, the majority of individuals have polygamic instincts which they find it difficult to resist.

We are now in a position to form a just opinion of primitive polygamy. Its causes are manifold. The principal one is often the disproportion of the sexes, resulting from the enormous mortality of men which savage life necessitates. The desire of giving the rein to a sensuality that there is, as yet, no thought of repressing, may have a certain share in the matter; but this motive, which is perhaps dominant in the polygamous anthropoid apes, quickly becomes secondary in man.

Even the lowest savage is more calculating, and has more forethought, than the monkey. His first slave, one may say his first domestic animal, is his wife. Even when he is still a simple hunter and nomad, he has always game to be carried, fire to be lighted, a shelter to be erected, without reckoning that wives are very apt at gathering edible fruits and shell-fish, and rendering a thousand services. Besides, they give birth to offspring that can be bartered, sold, or even eaten at need.

It is, therefore, very desirable to possess as many as possible of these beings, fitted for such various ends. If a man is an agriculturist, the wife is then of still greater utility; he puts upon her all the hard work; she digs, plants, sows, reaps even, and all for the profit of her master. She is, besides, a subjected and feeble creature, whom he can treat just as he will, and on whom he can let loose his instincts of brutal domination. By force or by ruse, by capture or by purchase, he therefore procures himself as many wives as possible. He often buys them in the lump; for example, a lot of sisters, or of relations of different ages. This diversity of age has its value; for, in all the numerous uses to which a wife can be put, the younger ones can take

at need the place of the elder when the latter are worn out or broken down.

Polygamy begins with equality—that is to say, that the man subjects his little feminine flock to an equal servitude, against which the wives do not think of rebelling, as they find it quite natural, for they are not of a more refined nature than their proprietor. By degrees, however, a certain hierarchy is established among the wives of the same man. This comes to pass when the social structure is already more complex, when there are chiefs, nobles, and priests. Polygamy, in this case, is restrained. Though it continues to be the taste of nearly all men, it becomes the privilege of the rich and powerful. The latter sometimes even indulge in an excessive polygamy, and it becomes difficult for them to maintain order and servile submission among their feminine flock. From this time they have one or more titular wives, who rule over their companions, and are sometimes exempt from hard labour. These chief wives are often daughters, sisters, or relatives of noted warriors, or of important men, with whom the husband is allied, and whose prestige somewhat protects the wives that they have given, or more often sold. In consequence of this, a certain tendency to become a distinct personality awakens in the wives themselves; they insist on having their separate hearth, and even their distinct apartment; life in the flock weighs on them.

Polygamy then puts on monogamic tendencies. The greater number of superior races have adopted this hierarchical polygamy before reaching the legal monogamy, in a mitigated form, of which I shall treat later. It is important now to describe with some details this polygamy of superior races.

CHAPTER IX.

POLYGAMY OF CIVILISED PEOPLE.

I. *The Stage of Polygamy.* — Primitive polygamy — Man resigns himself to monogamy.

II. *Arab Polygamy.*—Why the Mussulmans have remained polygamous — The inferiority of woman proclaimed by the Koran — Polygamic restrictions in the Koran—Religion sanctions the right of conjugal property—The purchased woman—The conjugal prerogatives of the prophet—Duties of the polygamous husband—Celestial polygamy—The Mussulman marriage is laic—Female merchandise—The preliminaries of marriage—Duties and obligations of the Mussulman husband; his rights—Marriage in Kabyle—Cruel subjection of the Kabyle wife—Sale and purchase of the wife—Excessive rights of the Kabyle husband—The Kabyle marriage is inferior to the Arab marriage—Polygamy and the subjection of women.

III. *Polygamy in Egypt, Mexico, and Peru.*—Monogamy of the priests in Egypt—Polygamy of the Incas and of the nobles in Peru —Polygamy of the nobles in Mexico—Polygamy with monogamic tendency.

IV. *Polygamy in Persia and India.*—Polygamy and concubinage of princes in Persia—Severity of sexual morality in the Avesta—Polygamy according to the Rig-Veda—Polygamy in the Code of Manu—Evolution of polygamy in India—How monogamy became established.

I. *The Stage of Polygamy.*

Our inquiry is already sufficiently advanced to give us an idea of the first phases of the evolution of marriage. To begin with, both in the case of human beings and of anthropoid apes, sexual unions have not been reduced to any rule; promiscuity has been rare and

exceptional, but polygamy has been very common, at least a gross polygamy, not regulated in any way, and merely resulting from the monopoly of the women by the strongest or the richest men. It has been a sort of conjugal anarchy, admitting simultaneously of various matrimonial forms, as polyandry, term marriage, experimental marriage, etc., during periods of more or less length.

Besides their primordial *rôle* as child-bearers, wives were found very useful in other ways—either for the satisfaction of sensual desires, or for the execution of a number of painful labours; and therefore men endeavoured to procure as many of them as possible, first by capture, and then by purchase, or by giving a certain amount of work in submitting to a temporary servitude. In the preceding chapter I have given the history of this primitive, savage polygamy which as yet no law regulated.

During the first phases of their social evolution, all the human races have practised, with more or less brutality, this gross polygamy. We have seen—and it is a subject to which I shall have to return—how, in the bosom of the polygamic *régime*, monogamic tendencies have appeared, which by degrees have ended by prevailing amongst all the more civilised races. These races have resigned themselves to adopt monogamy, or at least legal monogamy. I say "resigned," for it seems that monogamy costs much to man; in reality laws and customs have everywhere attenuated the severity of it for him by various compromises of which I shall soon have to speak.

II. *Arab Polygamy.*

However, among the superior races, there is one, the Arab race, which, up to our own time, has maintained and legalised the polygamic *régime*, while propagating and regulating it among the various peoples that have come under its domination. If, in this respect, the Arab race has been an exception to the general evolution, it is not because it is less gifted than the others; it has sufficiently proved this. According to the ancients, a fantastic fish,

the *remora*, had the power of suddenly stopping the passage of ships at sea; religion has played this part for the Arabs. Theoretically, all the great and solidly constituted religions are incompatible with progress. Although relatively they may appear innovations at the moment of their birth, yet they bar the route of the future, and, as much as is in their power, oppose all ulterior evolution. This is imperative, since they pretend to declare the immutable will of divine personages, who are omnipotent, omniscient, and perfectly wise, and who cannot consequently either re-touch or amend the laws that they make, and the commands they give to poor human creatures. Now, Islamism arose amidst the full polygamic *régime;* its founder could not even dream of establishing any other. Polygamy was therefore established by divine right among the faithful, and as at the bottom it is in accord with the primitive instincts of man, it has maintained itself in Mussulman countries from the time of Mahomet to our own days. From the sociological point of view this is a most interesting fact, for it gives us the opportunity of studying and estimating the polygamic *régime* in its full development.

Let us listen at first to the Koran; we will then consult the Arabian jurists and the customs of contemporary Arabs.

To begin with, the holy book loudly proclaims the inferiority of women, which naturally justifies their subjection, and this subjection is great in all polygamous countries. There is no ambiguity on this point in the words of the prophet: "Men are superior to women by reason of the qualities God has given them to place them above women, and *because men employ their wealth in giving dowries to women.* Virtuous women are obedient and submissive; they carefully guard, during their husband's absence, that which God has ordered them to preserve intact. Thou shalt correct those whom thou fearest may be disobedient: thou shalt put them in beds apart: *thou shalt beat them:* but as soon as they obey thee again, do not seek cause for quarrel with them. God is merciful and great."[1]

[1] Koran, Sourate, iv. 38.

This text is eloquent. It first of all consecrates masculine superiority by divine right, then marriage by purchase, and lastly, the liberty of the husband to treat his wives with brutality.

The restrictions on polygâmy found in the Koran are very slight: "Marry not the women whom your fathers had to wife: it is a sin, and abomination: except what is already past."[1]

No retrospective effect here! We may conclude from this that, up to the time of Mahomet, the sons inherited the harem of their father, as is still the case in a number of little despotic states of negro Africa.

The holy book also commands respect for the feminine property of others, save in the case of capture by war or of religious infidelity of the husband. "You are forbidden to take to wife free women who are married, except those women whom your right hand shall possess as slaves: such is the law of God."[2] "O believers! when believing women come unto you as refugees, try them. And if you know them to be true believers, send them not back to their infidel husbands; but give their husbands back what they have expended for their dower."[3] In the Koran the respect for money is already much greater than for females. The wife must be purchased. "It is permitted unto you to procure wives with money, and you shall keep them in virtuous ways, avoiding debauchery. Give unto her with whom thou dost cohabit the dower thou hast promised."[4]

The prophet counsels the faithful, without however commanding it, to have a small number of wives: "But if ye fear that ye cannot act equitably towards the orphans, take in marriage of such other women as please you, two, or three, or four, and not more."

The text ends with a permission to the man merely to pay a fictitious dowry to the wives: "Assign dowries freely to your wives, and if it pleases them to give you back a part, enjoy it conveniently at your ease."[5]

As for the prophet himself, he was to be above most of the restrictions which he imposed on others: "O prophet,

[1] Koran, Sourate, iv. 26. [3] *Ibid.* lx. 10. [5] *Ibid.* iv. 3.
[2] *Ibid.* iv. 28. [4] *Ibid.* iv. 18.

we have allowed thee thy wives unto whom thou hast given their dower, and also the slaves which thy right hand possesseth of the booty which God hath granted thee, and the daughters of thy uncle, and the daughters of thy aunts, both on thy father's side and on thy mother's side, who have fled with thee from Mecca, and any other believing woman, if she give herself unto the prophet."[1] "O prophet, if believing women come to thee for an asylum, having promised thee that they will flee idolatry, that they will not steal, nor commit fornication, nor kill their children, and will not disobey thee in anything that is just: believe them and pray for them: God is indulgent and merciful."[2] This last text gives a sad enough idea of the morality of the Arab women before the time of Mahomet; but taken together with the preceding one, it shows how convenient and even agreeable it is to be the interpreter of the Divine will.

With such facilities for recruiting, the harem of the prophet must have been richly furnished; therefore he has taken care to free himself from one duty which he recommends to others, of *debitum conjugale:* "Thou mayest," he says to himself, "either grant or refuse thy embraces to thy wives."[3]

On the contrary, he says to vulgar believers: "Ye can by no means carry yourselves equally between wives in all respects, though you study to do it; therefore turn not from a wife with all manner of aversion, nor leave her like one in suspense; if ye agree and fear to abuse your wives, God is gracious and merciful."[4]

Polygamy is not rare in the world. We have seen it and shall see it again in the course of our inquiries; but the polygamy of the Koran has an advantage over most of the others; it is at once celestial and terrestrial, for the paradise of true believers is only an ideal harem: "Say, O believer, what shall I declare of greater benefit for those who fear God, than gardens through which flow rivers of water, where they shall dwell for ever, and there shall be women, who are pure virgins, etc.[5] . . . Damsels having large black eyes. Therein shall be agreeable damsels, whom no man

[1] Koran, xxxiii. 47.
[2] *Ibid.* lx. 12.
[3] *Ibid.* xxxiii. 49.
[4] *Ibid.* iv. 128.
[5] *Ibid.* iii. 13.

or genius hath deflowered.[1] There shall be young and beautiful virgins.[2] . . . And near them (the elect) shall be houris with large black eyes, having complexions like rubies and pearls.[3] Verily we have created the damsels of Paradise by a peculiar creation."[4]

The whole of this sacred code sanctifies the inferiority of the woman, and this inferiority has not been at all mitigated in practice; for iniquity, always tenacious, is far more so when it is authorised by religion.

We must notice, however, in regard to Mussulman marriage, a circumstance which at first sight is singular: it is that Mahometanism intervenes in nothing, as religion, in all that that concerns marriage; all conjugal matters are absolutely private, and even the civil power does not appear any more than the religious power in the celebration of marriage.

As a general rule, the future husband goes to declare his union to the sheik or cadi, who then remits the minute of it to the interested party, without keeping a copy of it. This formality is, besides, in no way obligatory; the marriage is considered as a private act, and if afterwards any disputes should arise in relation to it, the parties concerned arrange them as well as they can, by appealing to the testimonial proof.[5]

It all amounts to this, that for Mussulmans the wife is a thing, and the marriage a simple bargain. The wife is always sold to the husband, and the price is discussed either by her legal representative or by her conventional agent. The nuptial gift is even essential to marriage, and if it has not been paid the wife has the right to refuse all intimate commerce. "The wife sells herself," says Sidi Khelil; "and every vendor has the right to retain the merchandise sold until after taking the payment."[6] Before buying, the suitor is allowed to see the face and the hands of the bride; for the hands of the women are reputed to give an idea of her personal beauty.[7]

A man ought, whenever possible, to marry a virgin, and

[1] Koran, lii. 20. [2] *Ibid.* lv. 56-70. [3] *Ibid.* lvi. 22.
[4] *Ibid.* lvi. 35. [5] E. Meynier, *Études sur l'Islamisme*, p. 148.
[6] Sidi Khelil, t. ii. p. 434 (quoted by Meynier).
[7] E. Meynier, *loc. cit.* p. 159.

the bargain may be concluded several years before the delivery of the merchandise.[1] If the girl is still a virgin, not emancipated, but beyond the age when it is considered necessary to commence the special *rôle* reserved to her sex, the father has the right to impose marriage on her.[2]

The orphan girl can also be married by the authority of the Cadi, if she is more than ten years old, and if there is reason to fear that she may lead an irregular life.[3]

In all other cases the consent of the girl is necessary. This circumstance, let us especially note, constitutes a real moral progress beyond savage polygamy, and we shall presently see that it is not yet realised in Kabyle. The consent of the girl is given in two ways, according to whether she is a virgin or not. This interesting particular must be frankly declared during the negotiation; the Koran commands it. If the girl is a virgin, it is understood that modesty should deprive her of speech, and in order to signify yes or no, she must have recourse to the language of signs. She can, for example, show her repugnance by covering her face, and her content by smiling. But if she is no longer *virgo intacta* she is allowed to speak freely.[4]

We have seen that, according to the Koran, the woman owes her master an absolute submission; and he, in return, whatever may be the number of his wives, binds himself morally not to leave any one of them "as in suspense." This precept of the sacred code is specifically carried out. Every Mussulman owes to his wives an equal share of his nights, and she who has had the favour of the night has a right to the following day also.

When the husband buys a fresh wife he is indebted to her seven successive nights if she is a virgin; for three only, in a contrary case. He has the right to refuse greater exactions than this.[5]

But the husband has other obligations. He must supply food to his wife, even if she is afflicted with a voracious appetite. This last case is considered as a calamity, but

[1] E. Meynier, *loc. cit.* pp. 158-160.
[2] Sidi Khelil, t. ii. pp. 326, 327 (quoted by Meynier).
[3] *Ibid.* p. 157.
[4] E. Meynier, *loc. cit.* p. 158.
[5] Sidi Khelil, t. ii. p. 505.

the husband must resign himself to it, or repudiate the glutton.[1]

The husband owes, besides, to his wife or wives water to drink, water for ablutions and purifications, oil to eat, oil to burn, oil for cosmetic unctions, wood for cooking and for the oven, salt, vinegar, meat every other day or otherwise, according to the custom in various countries. He must supply them with a mat or a bed—that is to say, a mattress—and a cover to put on the mat. These duties have correlative rights. The husband has the right to forbid his wife to eat garlic, or to eat or drink any other thing which may leave a disagreeable odour. He may interdict any occupation likely to weaken her, or impair her beauty.[2] Finally, if she refuses her conjugal obligations without reasonable motives, the husband can at will deprive her of salt, pepper, vinegar, etc.[3] The sum total of these restrictions renders an Arab woman's position a very subordinate one, both before and after marriage. But the fate of the Kabyle woman is much more miserable.

We are always hearing it repeated in France that the Kabyle man is monogamous, and consequently not so different from ourselves in this respect as the Arab; but among the Kabyles, as among the Arabs, it is polygamy which is legal; and if the greater number of the Kabyles are monogamous in practice, it is chiefly from economy.

In spite of their republican customs, of their respect for individual liberty, of the rights they accord to the mother, and of certain safeguards with which they protect the women in time of war, contrary also to the liberal tendencies of the Berbers in relation to women, the Kabyles of Algeria treat their married women and their daughters as actual slaves, and they are in this respect inferior to the Arabs themselves.[4] In all matters that refer to sexual relations the Kabyle customs are ferocious. Outside of marriage all union of the sexes is severely interdicted in Kabyle, and the married woman has no personality; she is literally a thing possessed.[5]

[1] E. Meynier, *loc. cit.* p. 165. [2] *Ibid.* p. 166. [3] *Ibid.* p. 167.
[4] E. Sabatier, *Essai sur l'origine, etc., des Berbères sédentaires*, in *Revue d'anthropologie*, 1882.
[5] Hanoteau et Letourneux, *La Kabylie*, t. ii. p. 148.

The young Kabyle girl is sold by her father, her brother, her uncle, or some relation (*aṛeb*); in short, by her legal owner. In announcing his marriage, a man says quite bluntly—"I have bought a wife." When a father has married his daughter, the phrase in ordinary use is—"He has eaten his daughter."[1]

Among the Cheurfas, but it is an exceptional case, the girl is consulted on the choice of a husband when she has attained the age of reason; everywhere else the virgin daughter is never consulted, and even the widow and repudiated wife, to whom the Mussulman law accords liberty, cannot dispose of themselves in Kabyle countries.[2]

In many tribes, however, the daughter can twice refuse the man that is proposed to her; but after that she has exhausted her right, and is forced to submit.[3]

The legal owner of the Kabyle woman generally gives her, at her wedding, garments and jewels; or rather, he lends them to her, for it is forbidden to the woman to dispose of them, and at her death these precious articles must be returned to her relatives.[4]

An essential condition of the Kabyle marriage, as of the Arab, is the payment of a certain price, generally debated, but which certain tribes of southern Jurjura have fixed once for all. This price is called the "turban" (*thâmanth*), as with us "pin-money" is spoken of. A penal sanction guarantees the payment of the *thâmanth* and the delivery of the person sold.[5]

In principle the woman has no right over the *thâmanth*.[6]

Besides the purchase money, or *thâmanth*, the Kabyle further stipulates in addition that he shall receive a certain quantity of provisions (cattle, or food, flour, oil, butter) to be consumed during the marriage festivities.

The villages which have tariffed the *thâmanth* have also fixed the amount of these presents.

The father likewise stipulates, for the benefit of the daughter who is sold, a gift of garments and of jewels; but this gift dispenses the husband from providing in this

[1] Hanoteau et Letourneux, *La Kabylie*, t. ii. p. 148.
[2] *Id.*, *ibid.* p. 149.
[3] *Id.*, *ibid.* p. 150.
[4] *Id.*, *ibid.* p. 162.
[5] *Id.*, *ibid.* pp. 152, 153.
[6] *Id.*, *ibid.*

respect for the maintenance of the wife during one year. This is particularly necessary, because the bride, in quitting her parents, leaves them all that she has received,[1] and takes away nothing but her body.

It is sometimes the mother who thus makes the conjugal sale of her daughter, but on condition of being recognised as guardian; and even then she does not enjoy, like the father, an unrestrained power, and she has to consult her daughter.[2]

Once purchased, the Kabyle wife is entirely at the mercy of the husband-proprietor. She must follow him wherever it suits him to settle; her only actual possession is the raiment which covers her. Her husband has the right to chastise her with his fist, with a stick, with a stone, or even with a poignard. He is only forbidden to kill her without a reasonably serious motive.[3]

If, however, when she has become a mother, she is unable to suckle her child, the law decides that the husband is obliged to provide a wet nurse;[4] though this is more for the child's sake than the mother's, as she cares little enough about the infant.

The married woman is considered so entirely as property in Kabyle that the prolonged absence of the master is allowed to set her free. In this case she belongs, after four years, to her maternal relations, who have the right to re-marry her—that is to say, to re-sell her—unless the absent husband has left her a sufficient provision. However, the husband's parents can delay the dissolution of the first marriage, sometimes for seven years, sometimes for ten years, but on condition of taking the place of the absent husband in furnishing the deserted wife with food and clothes.[5]

The Kabyle woman, therefore, married or not, is always a thing possessed. We shall see later that even widowhood does not enfranchise her. The right of correcting the woman who is not under the power of a husband ceases only when she has reached an age when marriage would be sterile, and especially if she has in a way abjured her sex by mixing with men in the markets.[6]

[1] Hanoteau et Letourneux, *La Kabylie*, t. ii. p. 161.
[2] *Id.*, *ibid.* p. 151. [4] *Id.*, *ibid.* p. 169. [6] *Id.*, *ibid.* p. 151.
[3] *Id.*, *ibid.* t. ii. p. 165. [5] *Id.*, *ibid.* t. ii. p. 146.

Very often the assimilation of the Kabyle people to the French is spoken of as a thing relatively easy. It appears to me that the servile subjection of the Kabyle woman is an almost insurmountable obstacle to this dream of fusion. Without doubt the married woman in France is only a minor; but in Kabyle she is still in the lowest stage of slavery. In this respect the Berbers of Kabyle are on a level with the coarsest savages; they are even inferior to the Arabs, although the latter have preserved almost unchanged the polygamic *régime* of the old Islamite, and even pre-Islamite ages. But in all times and all countries the condition of woman is the measure of the moral development of the whole people. Now, in regard to this there is a gulf between Kabyle and civilised Europe.

The polygamic *régime* has, besides, in every country an almost necessary result—the slavery of women. This is natural. As in the hordes of chimpanzees, the male, the anthropomorphous paterfamilias, only maintains his authority by force and by expelling his rivals, so, in human societies, the polygamous husband can hardly be anything but the proprietor of subjugated beings, not daring to aspire to freedom. It may be remarked also that the polygamic appetite, so habitual to man, cannot be strange to woman. Both have the same blood and share the same heredity. The polygamous husband, therefore, has always to prevent or repress the straying of his feminine flock by close confinement or by terror. Under a polygamic *régime* the wife has scarcely any rights; she has chiefly duties.

III. *Polygamy in Egypt, Mexico, and Peru.*

I have dwelt long enough on Mussulman polygamy. From a sociological point of view it is extremely interesting. It affords us the opportunity of studying from life customs which, with differences of detail, must have been those of all civilised peoples at a certain period of their evolution, and which probably have only been kept up among the Islamites on account of the confusion of civil and religious laws, these last giving to polygamy a sort of consecration.

In all the great primitive barbarous monarchies the

polygamy of the first ages has been by degrees restrained or abolished, according to the measure of social progress.

In ancient Egypt polygamy was still in force; but already it was interdicted to the priests,[1] contrary to what has happened nearly everywhere. As a matter of fact, and by the simple necessity resulting from the proportion of the sexes, even when polygamy is authorised and legal, it is especially the luxury of rich and powerful men; the common people have everywhere been reduced to monogamy, whether they wished it or not. Under most of the great early despotic monarchies which had emerged from primitive savagery this fact became legalised, and plurality of wives constituted a privilege reserved to the great ones of the land.

In ancient Peru monogamy was obligatory for men who possessed nothing, but not for the Inca and the nobles of the kingdom. Thus the last Inca, Atahualpa, had three thousand wives or concubines. As generally happens when polygamy is restrained, there was already a hierarchy among the wives of the Inca; one of them, who was obliged to be his sister, the *coya*, was reputed superior to the others, and her eldest son succeeded his father.[2] On this point, as on many others, ancient Peru had unconsciously copied Egypt.

In Mexico also, monogamy was habitual for the poor, but the powerful and the nobles had a number of wives proportioned to their rank and to their riches.[3] In Mexico, as in Peru, polygamy was monogamic in the sense that one wife had pre-eminence over the others, and that her children alone inherited the paternal title and wealth.

This polygamy of princes and potentates, who by right of birth soar above the common rule, is found also in the great Aryan empires of Asia.[4]

[1] Diodorus, book i. 80.

[2] W. Prescott, *Hist. of the Conquest of Peru*, vol. i. p. 46.

[3] W. Prescott, *Hist. of the Conquest of Mexico*, vol. i. p. 121.—Herbert Spencer, *Sociology*, vol. ii. p. 283.

[4] F. Müller, *Allgem. Ethnogr.*, p. 263.

IV. *Polygamy in Persia and India.*

The polygamy of the monarchs of ancient Persia seems to have been copied from that of the kings of Egypt, or of the Incas of Peru. They had numerous concubines and three or four wives, of whom one was especially considered as queen, or privileged wife.[1]

As for the Persians of more ancient times still, the Mazdeans who drew up the sacred code of the Avesta, if we refer to the Zend text, we find they had a most severe sexual morality. The Avestic code condemns and punishes resort to prostitutes, seduction, sexual extravagances, abortion, etc. Throughout that portion of the Avesta which has come down to us there is no recognition of polygamy, and the verses which mention marriage have quite a monogamic meaning. It seems, however, says one of the translators of the Avesta, that among the ancient Persians polygamy may have been authorised in case of sterility of the first wife.[2] Like anthropophagy, polygamy is an original sin with human societies. But writings so exclusively religious and even liturgic as the Avesta constitute very incomplete sources of information in regard to civil institutions. To study the marriage of the ancient Persians in the Avesta seems about as illusory as it would be to study ours in a Catholic prayer-book.

We know also, from the Code of Manu and historical and ethnographical documents, that polygamy is and has been far from being unknown in India, and yet it is difficult to prove from the text of the Vedic hymns that the writers of these chants have practised it.

This may be inferred, however, from several verses. In the beginning the morals were coarse enough for abortion to be common. "Let Agni," we read in a hymn, "kill the rakchasa who, under the form of a brother, a husband, or a lover, approaches thee to destroy thy fruit."[3] On the other hand, woman is held in slight esteem by the sacred chants. She is a being "of incapable mind and

[1] Herbert Spencer, *Sociology*, vol. ii. p. 295.
[2] C. de Harlez, *Avesta*, Introd. clxxi.
[3] *Rig-Veda*, sec. viii., lect. viii., H. xx., ver. 45.

unfit for serious employment."[1] In one hymn, Satchi, the daughter of Buloman, boasts of having eclipsed her rivals in the eyes of her husband.[2] A certain number of verses speak of the wives of the gods: "The praying cows, these wives of Agni, wish to obtain a proof of the virility of the god."[3]

In Sanskrit the word "finger" is feminine, and thus very often the fingers which handle the sacred mortar are called the ten wives of Agni.[4]

In short, other accounts leave us no room to doubt that in primitive India, as elsewhere, the great and the powerful have largely practised polygamy from Vedic times.[5]

That these customs have been those of Brahmanic India, the text of Manu in antiquity, and the reports of travellers in modern times, attest loudly enough. One verse of Manu regulates the right of succession of sons that a Brahmin may have by four wives belonging to different castes. "If a Brahmin has four wives belonging to four classes, in the direct order, and if they all have sons, this is the rule of inheritance. Let the son of the Brahmin (after having deducted the bull, the chariot, and the jewels) take three parts of the rest; let the son of the Kchatriya wife take two parts; that of the Vaisyâ, one part and a half; that of the Soudra, one part only."[6]

Another verse, much more singular, declares that the children of a second wife belong to the person who has lent the money to buy her:

"He who has a wife, and who, after having borrowed money from some one, marries another with it, derives no other advantage than the sensual pleasure; the children belong to the man who has given the money."[7] As for the king, the Code of Manu permits polygamy to him in the largest measure, at least under the form of concubinage. He ought to have a troop of wives, whose duty it is to fan him, and to pour water and perfumes over his august person.

[1] *Rig-Veda*, sec. iii., H. ii., ver. 17.
[2] *Ibid.* sec. viii., H. xvii., ver. 5, 6.
[3] *Ibid.* sec. iii., lect. iv., ver. 3.
[4] *Ibid.* sec. vii., lect. viii., H. xxvi., ver. 2.
[5] E. Burnouf, *Essai sur le Véda*, p. 213.
[6] *Code of Manu*, ix. ver. 149-151.
[7] *Ibid.* xi. ver. 5.

He refreshes himself with them from the cares of government, and passes the night in their agreeable company.[1] We must not forget, besides, that, as the Mahabharata has informed us, the Kchatriyas practised marriage by capture and polygamy.[2]

To sum up, in India, as everywhere else, polygamy has evolved; it has at first been common; then, when power and riches have been concentrated in the hands of a small number, it has become the privilege of the great. The polygamy of the princes and of the rich Brahmins was even the first obstacle encountered in the seventeenth century by the preaching of the Jesuits in India.[3]

In the present time it is the same for the great, and custom tolerates a second wife, even to common husbands, in case of sterility of the first.[4] I shall have to speak again of these customs in treating of concubinage.

If we now sum up the general sense of the numerous facts which I have just passed in review, we see that with the entire human race polygamy has succeeded to the sexual and conjugal anarchy of the first ages. Like all other institutions, primitive polygamy has gradually become regulated, but always while keeping the woman in a very humiliating position. / One fact of great importance, and which has by degrees ruined the *régime* of a plurality of wives, even when custom, law, and religion authorised it, is that polygamy became a luxury within the reach only of rulers, as soon as a tolerable social condition restrained the too rapid mortality of males. Indeed, from this moment the sexual equilibrium of births compelled the greater number of men to practical monogamy, and thenceforth, as Herbert Spencer justly remarks, a public opinion was necessarily formed in favour of monogamy. Often, therefore, polygamy constituted a legal privilege; it was expressly limited to kings, great men, and priests.

Besides this a hierarchy became established among the numerous wives, and one of them had precedence of her companions.

[1] *Code of Manu*, vii. ver. 219, 221, and 224.
[2] Wake, *Evolution of Morality*, vol. ii. p. 241.
[3] *Lettres édif.*, t. vi. p. 26; t. xv. p. 286; t. xii. p. 416.
[4] Wake, *loc. cit.*, vol. ii. p. 230.

Finally, legal monogamy was decreed, but this monogamy was in appearance only. In practice the pain of it was softened by compromises, notably by prostitution, which was at least tolerated, and by concubinage, which received the consecration of law.

CHAPTER X.

PROSTITUTION AND CONCUBINAGE.

I. *Concubinage in General.*—Frequency and reason of polygamic instincts—Palliatives of monogamy.

II. *Prostitution.*—Primitive prostitution—Slow rise of scruples—Specialisation of prostitution in civilised societies—Prostitution in the ancient States of Central America, in China and Japan—The right of the father, and prostitution in Japan—Prostitution in India—Religious prostitution—Prostitution in Europe.

III. *Various Forms of Concubinage.*—The concubinate—Concubine captives in Judæa and Homeric Greece—Some modern facts of the same kind—Slave concubines in Africa, in Abyssinia, and Madagascar—Legal concubinate in Central America—Categories of the concubinate in Mexico—The "lesser wives" in Tartary and China—Concubines in Assyria, among the Arabs, and in India—Greek hetaïrism—The concubinate in ancient Rome—The concubinate of the primitive catholic clergy—Concubines "by precaution"—Contemporary concubinage—Why it does not exist in Kabyle—The evolution of concubinage.

I. *Concubinage in General.*

As a connecting link between polygamy and monogamy, concubinage deserves special study.

Between institutions, as between organised beings, there is no sudden leap. Societies evolve slowly; it is by degrees that customs become refined, and that laws are formulated of a less and less brutal kind. It has been with marriage as with everything else. To the confusion of primitive bestial unions, when polygamy after the manner of chimpanzees prevailed, have succeeded sexual associations regulated by laws and customs. I have successively

described these outlines or primitive forms of marriage, ending with polygamy, which itself is not incompatible with a somewhat advanced civilisation, but which generally, by its restrictions, soon develops a tendency towards monogamy.

The abyss is not so very great that separates polygamic from monogamic marriage.

As we have seen, primitive man, besides having a purely animal absence of modesty, has generally polygamic instincts, and nothing can be more natural, since he descends from anthropoid precursors, and the great monkeys are habitually polygamous. But the solidity of instincts, moral or immoral, is always in proportion to the duration of their rise. Now, during enormous chronological periods or cycles, in comparison with which the historic ages of humanity are but a moment, our nearest animal ancestors and our prehistoric percursors have, as far as it was possible, lived in a polygamic *régime*. It is therefore quite natural that most men, even in the present time, should be much inclined to polygamy, and that primitive societies should only have emerged slowly and imperfectly from it, while tempering monogamic marriage by polygamic palliatives. Of these palliatives the two principal ones still in use amongst the most civilised peoples are prostitution and concubinage, which last becomes a concubinate when legalised.

II. *Prostitution.*

It would certainly be out of place here to give a detailed history of prostitution. Having, besides, repeatedly spoken of it in the preceding chapters, I may now confine myself to recapitulating the chief traits of its evolution. In primitive societies, as we know, it is general, and in no way blamed. Free girls and women willingly sell themselves, and more often still, they are an article of traffic for their parents, like any other merchandise.

No idea of shame as yet attaches to sexual unions considered in themselves. Prostitution is a simple barter which shocks no one, and venal love is merely restrained by respect for the property of another. Women who are

already appropriated, or possessed by a man, are in principle respected, but solely by the same title as any other property. Their masters, their husbands, those who have bought or captured them, have a perfect right to hire them out to whomsoever they will, as the Australian husbands do, and as the Polynesian ones did.

When the appropriation of women, polygamic as much as possible, became general, the more than fickle instincts of primitive man persisted none the less; and, as a matter of fact, it is then that prostitution, in the modern sense of the word, first arose. Outside the majority of women, regularly belonging to husband-proprietors, there existed, in much smaller numbers, women trafficking their persons, either voluntarily for their own profit, or for that of their legal possessors. At Senaar, for example, and in many other countries, merchants and slave-dealers trade very profitably in their feminine live stock.

We know also that, in primitive Athens, the most eminent men possessed troops of prostitutes, and drew a large revenue from them; for it is very slowly that prostitution, and all that relates to it, has awakened any scruple in the human conscience.

Even at the most glorious period of Hellenic civilisation, with what consideration were the most distinguished hetaïræ still regarded, since Socrates and Pericles willingly met at the house of Aspasia!

In all the more or less cultivated societies of the old or new world prostitution has flourished or continues to flourish. It is even in refined societies alone that prostitution becomes specialised and legalised, and ends by being regulated, by becoming, in short, a kind of institution, supplementing legal marriage and being concurrent with it.

Everywhere—in all countries, and among all races—prostitution has been, or continues to be, tolerated, and sometimes even honoured. It existed in the great states of Central America, in ancient Peru, in ancient Mexico, and in Nicaragua, where there were already prostitutes and brothels. In this last country the morals were still so impure, and continence, although very relative, so difficult to bear, that at a certain annual festival the women of all

classes were authorised to abandon themselves to whomsoever they pleased.[1]

In the great societies founded by the Mongoloid races, or the Mongols of Asia, prostitution displays itself in the open day. In China, tea-houses abound, although the ancient morality of the Celestial Empire makes chastity a moral duty for unmarried girls and women. In Cochin-China and Japan, on the contrary,[2] practice and theory are in accord. No moral brand of shame attaches to the prostitute. In Cochin-China, says Finlayson,[3] a father has the right to give his daughter, for a small sum of money, to a visitor or even a stranger, without the reputation of the young girl suffering any harm, and without any hindrance to her finding a suitable husband afterwards. In Japan the tea-houses (*tsiaya*) are more numerous still than in China; in the large towns they form vast quarters, and some of them are very luxurious. The mode of recruiting for inmates seems at first improbable to a European, and this alone suffices to show the relativity of morality.

Everywhere "the right of the father of a family" over his children has begun by being unlimited. In Japan it is still excessive, even over married daughters. Thus M. Bousquet, who was travelling in Japan a few years ago, relates that as he was lodging one day in the house of a young married couple, the father of the wife offered her to him, and the husband did not dream of protesting.[4]

A daughter represents a certain amount of capital, belonging first to the father and then to the husband; to alienate it without the consent of the proprietor is a theft, but with his authorisation the action becomes lawful, and therefore parents who are in difficulties negotiate their daughter without any intervention by the Japanese law. A young girl is even admired when she prostitutes herself from devotion. "The Japanese romances repeat to satiety the story of the virtuous virgin who voluntarily submits to this servitude in order to save her father from misery, or to

[1] Bancroft, *loc. cit.*, vol. ii. p. 676.
[2] *Hist. Univ. des Voy.*, t. xxxi. p. 133. [3] *Ibid.* t. xxxiv. p. 334.
[4] G. Bousquet, *Le Japon de nos jours* (1877), t. 1er. p. 246.

pay the debts of her betrothed."[1] In Japan, houses of prostitution are a national institution; the law regulates the costume of the women who inhabit them, and the duration of their stay. On this point Europe has little to envy Japan. But what is special to Japan is that the *tikakie*, the inmates of these houses, are placed there by their parents themselves, and for a price that is debated beforehand. These inmates of the tea-houses generally enter them from the age of fourteen or fifteen years, to live there till they are twenty-five years old. They are taught to dance, to sing, to play the guitar, and to write letters. They are lodged in handsome apartments, where men go to see them openly and without any mystery.

They are in no way dishonoured by their trade; many of them marry very well afterwards; it even happens that respectable citizens go to seek an agreeable wife in these houses of pleasure. The most beautiful among them are celebrated. After their death their portraits are placed in the temples. "In the temple of Asaxa," says M. Bousquet, "is found a painting representing several Japanese ladies in full dress; they are, my guides tell me, the portraits of the most celebrated courtesans of Yeddo, which are annually placed here in their honour." So also Dr. Schliemann reports that he has seen statues of deified courtesans in the Japanese temples. Their celestial intervention was implored in an original manner. The suppliants first wrote a prayer on a paper, then masticated the request and rolled it into a bullet, which they shot with an air-gun at the statues of these strange divinities.[2]

It is clear that the Japanese differ very much from us in their idea of feminine virtue. They have an idea, however, and do not in the least permit the women to love as they please. Thus the girl who gives herself to a lover without paternal authorisation is legally punished by sixty lashes with a whip, and the Japanese public would not endure in a play the personage of a young girl in love.[3]

It is not the chastity of woman, as we understand it, but her subjection, that Japanese morality requires. The

[1] G. Bousquet, *loc. cit.*, t. 1er. p. 87.
[2] Schliemann, *La Chine et le Japon.*
[3] G. Bousquet, *Le Théâtre au Japon* (*Revue des Deux Mondes*, 1874).

woman is a thing possessed, and her immorality consists simply in disposing freely of herself.

As regards prostitution, Brahmanic India is scarcely more scrupulous than Japan, and there again we find religious prostitution practised in the temples, analogous to that which in ancient Greece was practised at Cyprus, Corinth, Miletus, Tenedos, Lesbos, Abydos, etc.[1]

According to the legend, the Buddha himself, Sakyamouni, when visiting the famous Indian town of Vesali, was received there by the great mistress of the courtesans.[2]

But the Brahmins have not been more strict in what concerns prostitution than the founder of the great Buddhist religion. On this point the accounts of travellers and missionaries supplement the silence of the Code of Manu. The writers of *Lettres édifiantes* found religious prostitution openly practised in the Brahmanic temples. "The people have put," writes one of them, "the idol named *Coppal* in a neighbouring house; there she is served by priests and by *Devadachi*, or slaves of the gods. These are prostitute girls, whose employment is to dance and to ring little bells in cadence while singing infamous songs, either in the pagoda, or in the streets when the idol is carried out in state."[3] In this case it was a matter of actual commerce, of trading for the profit of the priests, and the latter had recourse without any shame to what we call today the advertisement to attract the customers. "I heard," relates the same missionary, "published with the blowing of a trumpet, that there was danger in frequenting the *Devadachi* who dwelt in the town; but that one could safely visit those who served in the temple of *Coppal*."[4] An old traveller, Sonnerat, confirms the testimony of the missionaries of the seventeenth century. He affirms that, like all the other Hindoos, the Brahmins are much addicted to libertinage, and that, in their practical morality, it is not considered a fault to have commerce with a courtesan; that they have licentious books in which

[1] Lecky, *History of European Morals*, vol. i. p. 103.
[2] Mrs. Spier, *Life in Ancient India*, p. 28.
[3] *Lettres édifiantes*, t. xii. p. 412.
[4] *Ibid.* p. 417.

refined debauchery is taught *ex professo;* that they use love-charms, etc.[1]

I stop here, and purposely abstain from speaking of the prostitution of Europe. We know too well that it has always been very flourishing, as well in ancient Rome as in the Middle Ages, although they were so catholic. In old France it established itself boldly, in full daylight; to such a degree that some towns, that of Rouen for example, had their *proxénètes jurés*, wearing bronze medals with the arms of the town on them.[2] As for contemporary prostitution, it is superfluous to call attention to the fact that it is one of our great social diseases.

To sum up, the origin of prostitution goes back to the most primitive societies; it is anterior to all the forms of marriage, and it has persisted down to our own day in every country, and whatever might be the race, religion, form of government, or conjugal *régime* prevailing. Taken by itself, it would suffice to prove that monogamy is a type of marriage to which mankind has found it very difficult to bend itself; the very general existence of the concubinate completes the demonstration.

III. *Various Forms of Concubinage.*

Between animal love, that can be tasted with the prostitute, and the noblest monogamic union, there is a wide space, which the concubinate has filled. Legal concubinage or the concubinate, admitted and practised, as we shall see, in so many countries, is a sort of free marriage, tolerated by custom, recognised by law, and co-existing by the side of monogamic marriage, the rigour of which it palliates. It was at first a blending of polygamy with monogamy, and then, undergoing itself an evolution analogous to that which has caused the adoption by degrees of legal monogamy among nearly all civilised peoples, it ended by becoming in its turn monogamic in ancient Rome. I will briefly retrace its ethnographical history.

In its primitive phase, still very confused, the concubinate has been simply the conjugal appropriation of slaves,

[1] *Hist. Univ. des Voy.*, t. xxxi. p. 351.

[2] Desmaze, *Curiosités des anciennes justices*, etc., p. 289.

especially of women captured after a victory. These were part of the rights of the victor; the captives were considered as booty, and shared in the same way. We have already seen in Deuteronomy that Moses authorises this barbarous practice, and that it was habitual also among the primitive Arabs. The Homeric warriors did the same, as various passages of the *Iliad* and *Odyssey* prove.

I will quote a few of them. To begin with, we find the old priest Chryses comes to offer Agamemnon a rich ransom for his daughter, and receives from the king of kings the brutal reply—"I will not set your daughter free: old age shall find her in my dwelling at Argos, far from her native land, weaving linen and sharing my bed. Go, then, and provoke me not."[1]

Thersites, speaking to Agamemnon, is still more explicit—"Son of Atreus, what more dost thou require? What wilt thou? Thy tents are full of brass and of many most beautiful women, that we give first to thee, we, Acheans, when we take a town."[2] Elsewhere, Achilles, speaking of his beloved Briseis, of whom he had been robbed, cries—"Why have the Atreides led hither this vast army? Is it not for the sake of the dark-haired Helen? Are they, then, the only men who love their wives? Every wise and good man cherishes and loves his wife. And I also loved Briseis from my heart, although she was a captive."[3]

And, a little further on, he makes a clear distinction between the slave concubine and the legitimate wife, swearing never to accept as wife a daughter of Agamemnon.

In the *Odyssey*, when Ulysses enters unrecognised his own house, and sees pass before him in the vestibule his female slaves, laughing and joyous as they go to play with the suitors, his feelings are not merely those of a lawful proprietor who is offended, but of a jealous man whose harem has been violated. At first he is tempted to kill these women, which he actually does a little later, and he hears "his heart cry out in his bosom, as a bitch, turning around her young ones, barks at a stranger and tries to bite him."[4]

But such customs have prevailed here and there up to

[1] *Iliad*, i.
[2] *Ibid.* ii.
[3] *Ibid.* ix.
[4] *Odyssey*, xx. xxii.

modern times. In 1548, in Peru, when Pedro de la Gasca had defeated the party of Pizarro, he distributed amongst his followers the widows of the colonists who were killed.

At Asterabad, after a small local revolt, Hanway saw the Persian magistrates sell fifty women to the soldiers.

In Livonia, after the taking of Narva, Peter the Great coolly sold to the boyars the wives of the inhabitants.[1] Bruce tells us also that in Abyssinia the victors habitually take possession of the wives of the vanquished.[2]

But if captives serve or have served somewhat in all countries to supply the domestic concubinate, they were not the only ones reserved for this purpose; female slaves, however procured, were treated as such. The fact is so well known that I shall abstain from establishing it by examples. I only quote one observed at Sackatoo, in tropical Africa, for it proves clearly that in a barbarous country, concubinage, or the domestic and servile concubinate, does not outrage morality in any way, and is regarded merely from a commercial point of view. At Sackatoo, when a married man has intimate relations with one of the female slaves given as dowry to his wife, he need simply replace her the following day by another slave who is a virgin and of equal value. On this purely mercenary condition, the caprice of the husband never occasions any conflict with the legitimate wife.[3]

The relative and so-called Christian civilisation of the Abyssinians accommodates itself very easily to such customs. By the side of the *oizoro*, the proud and indolent matron, all the great nobles have a troop of pretty servant girls with sprightly looks.[4]

The king sets the example, and naturally he goes further still. If any woman has had the good luck to please him, he sends an envoy to invite her to live in the palace. This distinction is received as it should be: the lady adorns herself as quickly as possible, and obeys without a murmur; but above these concubines there is the wife or queen, the *itighe*.

As far as they can, ecclesiastical dignitaries imitate laic

[1] Houzeau, *Études sur les facultés mentales des animaux*, t. ii. p. 381.
[2] *Les Abyssiniennes*, p. 13.
[3] Clapperton, *Second Voy.*, vol. ii. p. 86.
[4] Le Jean, *Théodore*, ii.

ones. Bruce found one, the Abba-Salam, guardian of the sacred fire, third personage in authority in the church, who forced women to yield to him by a threat at the same time pious and original—the fear of excommunication.

I have already spoken of the Malagasy concubinage, of the chief wife (*vadi-be*) having her own apartment and privileges, and ruling over the "lesser wives" (*vadi-keli*), who live together in equal submission.[1]

In short, the domestic concubinate is largely practised over all central or barbarous Africa.

The ancient half-civilised nations of central America did not disdain it either. In Peru, as we shall see, the monogamic *régime* was obligatory, but only for the poorer people.

In the Maya nations, the rich and powerful practised the concubinate without any moderation.[2] At Guatemala, the parents were filled with solicitude on this point, and when a young noble married a girl of his own rank who had not yet attained puberty, they were careful to keep him patient by giving him a young slave as concubine, whose children, however, would not be his heirs.[3]

In Mexico there were three kinds of concubines :—

1. Young girls not yet arrived at a marriageable age, and whom the parents usually chose for their sons at the request of the latter. These unions required neither ceremony nor contract, but they were often legitimated later, when they became fruitful.

2. Partially legitimate wives, who were also partially married, retaining only the characteristic trait of the conjugal ceremony—that is, the tying together of the garments of the half-married ones. These wives could not be repudiated without a motive, but neither they nor their children could inherit.

3. Lastly, the third class comprehended simple concubines, largely kept by the nobles, and who ranked not only lower than the legitimate wives, but also than the half-legitimate ones.[4] All this system is ingenious, and it is certainly difficult to state the gradation better.

[1] Dupré, *Trois Mois à Madagascar*, p. 153.
[2] Bancroft, *Native Races*, vol. ii. p. 671.
[3] *Id.*, *ibid.* vol. ii. p. 664.
[4] *Id.*, *ibid.* vol. ii. p. 164.

However common the concubinate may be, nowhere do we find it so wisely combined as in ancient Mexico, where four sorts of sexual association were recognised—monogamic marriage, consecrated by law and religion; semi-legitimate marriage; free and durable union with a legitimable concubine; and lastly, free love, escaping all regulation.

I shall proceed soon to take an estimate of these customs, so different from our own, but it still remains for me to speak of the concubinate among the superior races, the yellow and the white. The Mongols of Tartary are monogamous in principle, in the sense of having one sole legitimate wife; but the rich and noble have by the side of this matron or chief wife, concubines or lesser wives, subject to the former, who has precedence and rule over them, who governs the household, and whose children are considered legitimate and have hereditary rights.[1]

In China, the concubinage of the Mongols has been carefully regulated, like everything else; it is naturally, as elsewhere, the privilege of the rich and great, who sometimes keep a veritable harem, and people it by purchasing pretty girls, scarcely arrived at puberty, from their parents (Macartney, *Hist. Univ. des Voy.*, t. xxxiii. 473).[2] According to the current morality of China, the concubinate is blamed unless the legitimate wife remains sterile for ten or twelve years.[3] Formerly an attempt was made to restrain it, by only tolerating it for the mandarins and childless quadragenarians;[4] but these severe measures have fallen into desuetude.

At the present day the Chinese concubinate has no other check than human respect and public opinion. It is perfectly legal. The first or *chief wife* is an honoured matron; she commands the *lesser wives*, who owe her respect and obedience. If a husband attempts to lower her to the rank of lesser wife, he incurs the bastonnade with a hundred strokes of the bamboo, but ninety only if, on the contrary,

[1] Huc, *Voyage en Tartarie*, etc., t. 1er. p. 301.—Préjévalsky, t. 1er. p. 69; t. ii. p. 121.
[2] Timkowski, *Hist. Univ. des Voy.*, t. xxxiii. p. 311.
[3] Sinibaldo de Mas, *La Chine et les puissances Chrétiennes*, t. 1er. p. 51.
[4] Huc, *L'Empire Chinoise*, t. ii. p. 255.

he tries to raise a lesser wife to the supreme rank.[1] The legal concubines, the lesser wives, are subordinate to the especially legitimate wife, and are forbidden to assume the dress reserved for her.[2] The chief wife is the mistress of the house; she is not only the mother of her own children, but also the putative mother of the children of the lesser wives. The latter children wear mourning for her and not for their natural mother; and it is on the legal mother that they lavish the expressions of their respect, affection, and obedience.[3] We learn from Chinese comedies that rivalries sometimes break out between the matron and her fellow wives; but in general the Chinese woman is so well trained, so well broken in from infancy, that this is rare enough, and Chinese wives have even been known to counsel their husbands to take concubines in the towns where they may be long detained by business.[4] It is well to remember, by the way, that the human brain can retain all kinds of impressions, and that morality and instincts strictly result from the nature of the life and education.

The concubinate must actually have been necessary for man, for we see it practised by all races, and by the white races as well as the others.

We know that the monarchs of ancient Assyria had, by the side of the single wife, a good number of concubines, exactly like the Abyssinian negroes of our own days, or, to keep to antiquity, like the glorious Solomon.

Polygamous as they are, the modern Arabs do not on that account abstain from the concubinate. Even at Mecca all the rich men keep in their houses, with their legitimate wives, concubines who are generally natives of Abyssinia. However, if one of these women becomes a mother, the morality of the country requires her master to raise her to the rank of legitimate wife.[5] The *Mekavy* of the middle and lower class also buy young Abyssinian slaves, teach them to cook and to sew, make concubines of them, and re-sell them afterwards advantageously to passing strangers,

[1] Pauthier, *Chine moderne*, p. 238.
[2] Milne, *Real Life in China*, p. 161.
[3] Huc, *L'Empire Chinoise*, t. ii. p. 258.
[4] Milne, *Real Life in China*, p. 161.
[5] Burckhardt, *Hist. Univ. des Voy.*, t. xxxi. p. 148.

especially if they have been sterile;[1] in this commerce they unite pleasure and profit.

The concubinate is not more rare among the Aryans than the Semites. The monarchs of ancient Persia had, we know, a troop of concubines; and in all the great barbarian societies, the princely concubinate is only the survival of old customs.

In India the Brahmins of the middle class often have one chief wife, and at the same time several domestic concubines.[2]

We have seen that in Homeric Greece the concubinate was a general practice, and in no way censured. In later times, when Greece was more civilised, the primitive domestic concubinate disappeared, but there always remained to alleviate the ennui of monogamic marriage what we call concubinage, or hetaïrism, which was openly practised by Socrates and Pericles. "If," says Lecky on this subject, "we could imagine a Bossuet or a Fénélon figuring among the followers of Ninon de Lenclos, and publicly giving her counsel on the subject of her professional duties and the means of securing adorers, this would be hardly less strange than the relation which really existed between Socrates and the courtesan Theodota."[3]

All societies which have had any legal form of marriage have adopted the concubinate, either free or more or less regulated, but it has nowhere been so precisely legalised as in ancient Rome. I shall say a few words about it, not that I intend to walk in the steps of our legists, but in order to show what assistance ethnographical sociology could be to the science of written law. By its means alone can the legal texts, which have been a hundred times studied, commented on, and criticised in an isolated manner, as if they related to sociological facts without analogy in the world, be connected with the general evolution of customs and institutions.

At the bottom, the Roman concubinate is essentially similar to the others; it has merely been legalised with

[1] Burckhardt, *Hist. Univ. des Voy.*, t. xxxii. p. 148.

[2] Sonnerat, *Hist. Univ. des Voy.*, t. xxxi. p. 349.—*Ibid.*, Laplace, t. xviii. p. 433.

[3] Lecky, *Hist. of European Morals*, vol. ii. p. 280.

more care, and transformed into an institution as regular as marriage proper. It was, besides, indispensable in a country where the right of marriage, the *jus connubii*, was restricted. The *leges Julia* and *Papia-Poppœa* also expressly authorise it.

In short, the Roman concubinate was a free union between a man and a woman not wishing, or not being able, to marry.[1] It was lawful to have as concubine a woman with whom marriage was forbidden—an adulteress, an actress, a woman of bad life, or a freed slave. This last case was the most frequent, most moral, and the most protected by the laws.

The intention of the parties, revealed either by a formal declaration, or by the inequality of conditions, determined between marriage and the concubinate. The dowry was one of the signs which served to distinguish marriage from the concubinate.

The Roman concubinate was only, in fact, a marriage of inferior degree.[2] Thus a married man could not take a concubine. A bachelor could not have several at the same time.[3]

The concubinate implied paternity. The child was considered as a natural child of the father (*naturalis, non vulgo conceptus*), though he did not enter the father's family or become his heir, but followed the status of his mother.[4]

The institution of the Roman concubinate evolved naturally, and its conditions were more and more ameliorated.

Under Constantine, the legitimation of children born from a concubinate was permitted in a general way by marriage between the father and the woman who had been his concubine up to the day of marriage. It was necessary, however, that the man should not have at the time a legitimate child. But Justinian authorised the legitimation even in this last case; he granted also the benefit of legitimation to the children of an enfranchised slave marrying

[1] Domenget, *Institutes de Gaius*, sec. 63.
[2] R. Cubain, *Lois civiles de Rome*, pp. 188, 189.
[3] Domenget, *loc. cit.* sec. 63.
[4] R. Cubain, *loc. cit.* p. 188.

her master, provided that the latter had not then any legitimate children.[1]

When Christian marriage had definitely abolished the Roman legal concubinate, custom naturally braved the laws, and the clergy themselves were the first to set the example, thus proving the truth of the assertion in Genesis, "It is not good for man that he should be alone." For a long time the anointed of the Lord had wives or concubines. The latter took the place of the former when, by St. Boniface, St. Anselm, Hildebrand, etc., and the Councils, the marriage of priests had become an atrocious crime.

In 1171, at Canterbury, an investigation proved that the abbot-elect of St. Augustine had seventy children in a single village.[2] During many years a tax, called by an expressive name (*culagium*), was systematically levied by various princes on priests living in concubinage.[3] Better still, it often happened that the lay parishioners obliged their priests to have concubines, *by way of precaution.* A canon of the Council of Palencia (1322) anathematises the laics who act thus.[4] In his *History of the Council of Trent,* Sarpi says that many Swiss cantons had adopted this custom. At the Council of Constance, an important speaker, Nicolas de Clemangis, declared that it was a widely-spread practice, and that the laity were firmly persuaded that the celibacy of the priests was quite fictitious. Bayle quotes on this point the following remarkable passage—"Taceo de fornicationibus et adulteriis a quibus qui alieni sunt probro cæteris ac ludibrio esse solent, spadonesque aut sodomitæ appellantur; denique laici usque adeo persuasum habent nullos cælibes esse, ut in plerisque parochiis non aliter velint presbyterum tolerare nisi concubinam habeat, quo vel sic suis sit consultum uxoribus, quæ nec sic quidem usque quaque sunt extra periculum."

If, leaving aside the middle age and its clergy, we cast our eyes around us in the most civilised and polished European societies, we see that the concubinate has indeed disappeared, but that its inferior form, concubinage, is very

[1] Domenget, *Institutes de Gaius*, sec. 58.
[2] Lea, *History of Sacerdotal Celibacy* (Philadelphia, 1867), p. 296.
[3] *Id., ibid.* pp. 274, 292, 422.
[4] *Id., ibid.* p. 324.

flourishing. Centuries of legal and religious restraint have not been able to uproot it, and the rigid monogamic marriage inscribed in our laws is constantly set at defiance by our customs. Nearly everywhere the number of births called illegitimate is on the increase. In France it constantly progresses—

From	1800 to 1805 . .	4.75 per cent.
„	1806 to 1810 . .	5.43 „
„	1821 to 1825 . .	7.16 „

Since that time the proportion has oscillated round 7.25 in France. But in Sweden, from 1776 to 1866, it has risen from 3.11 per cent. to 9.5. In Saxony the return has been 15.37 in 1862-1864.[1]

At Paris, according to the calculations of A. Bertillon, more than a tenth of the couples (40,000) were living in free union.

In fact, if we interrogate all races, all epochs, and all countries, we see that the concubinate and concubinage have flourished, and still flourish, by the side of legal marriage. One country alone is an exception to this—Kabyle. But the exception confirms the rule. If we find in Kabyle neither concubinage nor concubinate, neither free unions nor natural children, the reason is very simple. It is that outside marriage no sexual union is tolerated, and in case of illegitimate birth the mother and child are both put to death, whilst retaliation falls on the illegal father.[2]

The concubinate is therefore, or at least has been till now, natural to man. One may say, borrowing a locution from Bossuet, that this is proved by "the experience of all the centuries." It remains for me now to deduce from the facts I have enumerated a sketch of the general evolution which they represent, and to estimate their moral significance. The evolution is of the simplest. Sexual union, without restraint or law, has been the commencement. Then the right of the strongest or the richest has created polygamic households. In these households the priority was at last bestowed on one wife; but as the husband did not intend to curb his changing humour, he kept by the side of the chief spouse either slaves or "lesser

[1] M. Block, *Europe Politique et Sociale*, pp. 204, 205.
[2] Hanoteau et Letourneux, *La Kabylie*, t. ii. p. 148.

wives," to whom, in the end, a legal position was accorded. The monogamic *régime* making more and more way, the time came—at Rome, for example—when this disguised polygamy was no longer tolerated, and the concubinate became a marriage of the second order, being unable to co-exist with the other. At length there was a pretence of abolishing it, and there was no other matrimonial type legally recognised except the monogamic union, lasting till the death of the husband or wife. But custom has rebelled against the law, and monogamy has been more apparent than real. Prostitution for the least refined, adultery and free union for the others, have served as safety-valves for inclinations too inveterate and too violent to be controlled by legal texts. Has moral purity gained thereby? Surely not. Moreover, there is in consequence a whole population of illegitimate children, too often abandoned by their fathers, and suffering from their birth a legal indignity of the most iniquitous kind. Hence arise a thousand unmerited sufferings, which legislation must some day or other remedy, and from which the legal concubinate has spared China, for example. Doubtless the ideal is a fine thing, but it is folly to sacrifice the real to it, and to legislate without taking into account the requirements of human nature.

CHAPTER XI.

PRIMITIVE MONOGAMY.

I. *The Monogamy of Inferior Races.*—The causes of monogamy—The gynecocratic theory of Bachofen—Inferior monogamic races—Races which are polygamic, although superior—Co-existence of monogamy and pologamy.

II. *Monogamy in the Ancient States of Central America.*—Monogamy of the common people in Mexico and Peru—Civil marriage in Peru.

III. *Monogamy in Ancient Egypt.*—Gynecocracy in Egypt—Its *raison d'être.*

IV. *Monogamy of the Touaregs and Abyssinians.*—Gynecocracy among the Touaregs—Fragility of Marriage in Abyssinia.

V. *Monogamy among the Mongols of Asia.*—Monogamy in reality in Thibet—Modified monogamy among the Tartars—Marriage in China—Matrimonial legislation in China—Conjugal docility of the Chinese women—Japanese marriage.

VI. *Monogamy and Civilisation.*

I. *The Monogamy of Inferior Races.*

After having successively studied the inferior forms of sexual and conjugal unions, it now remains for us to investigate the most elevated of them—the one that all, or nearly all, the great civilised societies have ended by adopting, at least in appearance, in their legal systems—monogamy.

Of the great causes which have led to the adoption of monogamic marriage, the first is the sexual equilibrium of births as soon as it was no longer disturbed by the casualties of savage life. Without doubt, in a society

composed sensibly of equal numbers of men and women, the more powerful and rich may monopolise several women by the right of the strongest, but in doing so they wrong the community, and public opinion becomes hostile to the practice. It is thus that with the Dyaks the chiefs lose their authority and see their influence diminish when they indulge in polygamy, although no law forbids it.[1]

Another cause quite as powerful which contributed greatly to lead to legal monogamy was the institution of individual and hereditary property. L. Morgan does not hesitate to refer monogamic marriage to this sole origin. Indeed, in all societies more or less civilised, the desire for heritable property has quickly assumed a capital importance; the more or less equitable regulation of questions of interest, and the anxiety to safeguard these interests, form the solid basis of all written codes. Now, nearly everywhere the heritage is transmitted according to filiation, sometimes maternal, sometimes paternal; but it is only in the monogamic *régime* that the parentage of children is the same for all in the paternal as well as the maternal line.[2]

Over and above this, moral motives have reinforced the great influences resulting from the laws of natality and the all-powerful questions of interest. In theory or ideal, the life-long union of two beings, giving and devoting themselves to each other, engaging to share good and evil fortune, is surely very noble; but, as we shall see, the realisation of monogamic marriage has everywhere been most gross, and it is difficult to refer it to elevated aspirations. Unless we are intoxicated with sentimentalism, we cannot believe, with Bachofen,[3] that women, naturally more noble and more sensitive than their gross companions, grew tired of primitive hetaïrism, and, obeying powerful religious aspirations, enthroned monogamic marriage by force, becoming by the same stroke heads of the family, and inaugurating gynecocracy. These Amazonian fables are very energetically contradicted by history and ethnography.

[1] Herbert Spencer, *Sociology*, vol. ii. p. 301.
[2] *Id.*, *ibid.* vol. ii. pp. 301, 302.
[3] *Das Mutterrecht.*

Nearly in every age, and nearly in every place, woman, by reason of her native weakness, has been subordinate to her companion, often oppressed by him, and her subjection is the more severe as the civilisation is the more primitive. It is a great error to believe that in all times and places monogamic union is the sign and necessary seal of an advanced civilisation. A number of primitive tribes are monogamous; certain monkeys are so too. Among the inferior monogamous races I will mention the Veddahs[1] of the woods of Ceylon, so low in intelligence that they have not even names for the numbers; the Bochimans of South Africa,[2] scarcely more developed; the Kurnais of Australia, among whom monogamy, though not obligatory, is general.[3] Certain aborigines of India,[4] less primitive, no doubt, than these very humble specimens of our species, but still very savage, are also monogamous. These are: the Nagas, who are contented to make their one wife work very hard; the Kisans, who limit themselves to a single wife, and have not even any concubines;[5] the Padans, who set a good example to more than one superior race, for not only do they blame polygamy and only practise it exceptionally, but they do not buy their wives, and leave to their young people the liberty of marrying as they please.[6]

The form of marriage is therefore not necessarily connected with the degree of general civilisation. The contrary is well proved, since very civilised peoples have adopted polygamy, sometimes openly, and very often in a masked form. Man is willingly polygamous by instinct, but he is often forced to bend to the necessities of social existence. Therefore, in the same country, and in the same race, we may meet with tribes and ethnic groups very analogous in everything else, but practising very dissimilar conjugal forms. It is not rare, for example, to see monogamy and polygamy elbowing each other. Thus the Redskins are willingly polygamous, and yet the Pimas, the Cocomaricopas, and a number of tribes on the banks of the Gilo, of Colorado and of New Mexico, only marry one wife, whilst

[1] *Das Mutterrecht.* [2] Spencer, *Sociology*, vol. ii. p. 299.
[3] Fison and Howitt, *Kamilaroi and Kurnai.*
[4] Dalton, *Ethnology of Bengal*, p. 41.
[5] *Id., ibid.* p. 132. [6] *Id., ibid.* p. 28.

with the Navajos, the Comanches, etc., a man has as many wives as he can buy.[1]

With the Zapotecs of the Isthmus of Tehuantepec there is no polygamy; it is forbidden.[2] On the contrary, with all the Indians of Columbia polygamy is general; but the Otomacs, who are reckoned among the most savage, are monogamous.[3] Necessity makes the law; and although it may be the legal form of marriage adopted by the superior races, monogamy does not imply in itself an advanced civilisation. Besides, the numerous facts that I have previously quoted abundantly prove that polygamy and monogamy can coexist in the same society—the former for the sole use of the ruling classes, the latter for the common people.

II. *Monogamy in the Ancient States of Central America.*

It was thus in Mexico,[4] where, among the wives of the great men, one alone was called lawful; her children inherited the paternal title and wealth, to the exclusion of the others.[5] In Peru, as in Mexico, the law, with the bold partiality which there is no attempt to disguise in barbarous societies, permitted polygamy to the Inca and to the enormous family of the Incas, while exacting a strict monogamy from the poor. State communism, imposed on the country, regulated the sexual unions somewhat as our rural proprietors regulate the coupling of their domestic animals. Peruvian marriage was a civil act, very comparable to enforced military service in modern Europe. Every year in the kingdom of Cuzco it was the practice to assemble together in the squares of the towns and villages all the individuals of marriageable age, from twenty-four to twenty-six years for the men, and from eighteen to twenty for the women. At Cuzco the Inca himself married the persons of his own family, and always in a public square, by putting in each other the hands of the different couples. In their

[1] Doménech, *Voyage Pittoresque dans les Déserts du Nouvean Monde*, p. 510. [2] Bancroft, *Native Races*, etc., vol. ii. p. 661.
[3] Mollien, *Hist. Univ. des Voy.*, t. xlii. p. 416.
[4] Fr. Müller, *Allgem. Ethnogr.*, etc., p. 263. [5] *Id.*, *ibid.* p. 263.

respective boundaries the chiefs of districts, resembling our mayors, fulfilled the same function for the persons of their own rank or of an inferior rank. We are indeed told that the consent of parents was necessary, but it was not a question of the consent of the interested parties.[1] Besides, it was strictly forbidden to marry outside the civil group of which the individuals formed a part. In this case marriages must often have been contracted between relatives more or less near. As to incest, there was little severity, since the Inca was legally bound to marry one of his sisters, with the reservation that she might not be his uterine sister,[2] and the same rule was at last extended to the nobles of the empire.

In sanctioning the civil marriage of the country, the public functionary, the *Curaca*, administered to the couple the oath of conjugal fidelity, which, according to P. Pizzarre, was generally kept; perhaps because, as we shall see later, the Peruvian law was not tender to adulterers.

There does not appear to have been the least nuptial ceremony in Peru. In Mexico, on the contrary, marriage was celebrated with much show, and it was religious. The bride was conducted in great pomp to the house of the bridegroom, who came with his family to meet her. The two processions mutually perfumed each other with boxes of burning incense. After this the future spouses sat down on the same mat, and a priest married them by tying the robe of the bride to the mantle of the bridegroom. The precaution had previously been taken to consult the diviners and augurs. Nuptial festivals followed, in which the newly-married couple took no part. They lasted four days, and the marriage was not to be consummated until their termination.

III. *Monogamy in Ancient Egypt.*

In the ancient empires of central America the position of the wife was very subordinate;—this is an ordinary fact in barbarous countries. But in this respect, a singular exception seems to have existed in ancient Egypt, which

[1] W. Prescott, *Hist. of the Conq. of Peru*, vol. i. p. 121.—Garcilaso de la Vega, *Com de los Incas*, pp. 25, 113, 218. [2] *Id.*, *ibid.*

nevertheless offers so many analogies to ancient Peru. This anomaly must be described with some details, because the believers in a prehistoric gynecocracy complacently rely on it to support their theory.

The general assertions of the writers of antiquity on this point have been confirmed by the demotic deeds recently deciphered. I shall briefly quote both.

Let us listen first to Herodotus on the subject of Egyptian women: "They have established laws and customs opposite, for the most part, to those of the rest of mankind. With them the women go to market and traffic; the men stay at home and weave. . . . The men carry burdens on the head, the women on the shoulders. . . . The boys are never forced to maintain their parents unless they wish to do so; the girls are obliged to, even if they do not wish it."[1] From this last rule it is already logical to infer that the women possessed and inherited property, which is not ordinary in primitive monarchies. Herodotus adds that "no woman performs sacerdotal duties towards a divinity of either sex; the priests of all the divinities are men."[1] In a country so profoundly religious this interdict clearly proves that in public opinion, at least, the woman was held to be an inferior being. Besides, polygamy was permitted in Egypt, which suffices of itself to exclude the idea of feminine domination in the family. However, Herodotus relates that many Egyptians, especially "those that dwelt on the marshes," have, like the Greeks, adopted monogamy.[2]

Diodorus goes further than Herodotus. He affirms that in the Egyptian family it is the man who is subjected to the woman: "Contrary to the received usage of other nations, the laws permit the Egyptians to marry their sisters, after the example of Osiris and Isis. The latter, in fact, having cohabited with her brother Osiris, swore, after his death, never to suffer the approach of any man, pursued the murderer, governed according to the laws, and loaded men with benefits. All this explains why the queen receives more power and respect than the king, and why, among private individuals, the woman rules over the man, and that it is stipulated between married couples, by the terms of the dowry-contract, that the man shall obey the woman."[3]

[1] Herodotus, bk. ii. p. 35. [2] *Id.*, bk. ii. p. 42. [3] Diodorus, bk. i. p. 27.

The assertion of Diodorus seems at first sight inadmissible; nevertheless, the demotic deeds, in a measure, confirm it. If the family subjection of the man was not general in Egypt, at least it existed in a number of cases. In reality, the Egyptian law did not deal with marriages, and the interested parties contracted them at their will. Now, in virtue of the law of matriarchal inheritance, the woman was often richer than the man. She could therefore dictate how the marriage contract should be drawn up. The conjugal union was manifestly before every thing a commercial agreement, since the word *husband* does not appear in the documents until after the reign of Philopator.[1] The Egyptian woman generally married under the *régime* of the separate possession of property; she did not change her condition, and preserved the right of making contracts without authorisation; she remained absolute mistress of her dowry. The contract also specified the sums that the husband was to pay to his wife, either as nuptial gift, or as annual pension, or as compensation in case of divorce.[2]

Sometimes even, by acts subsequent to marriage, the Egyptian wife could succeed in completely dispossessing her husband, and therefore the latter was careful to stipulate, as a precaution, that his wife should take care of him during his life, and pay the expenses of his burial and tomb.[3]

To sum up, it appears, indeed, that in ancient Egypt no marital power existed, at least in the families of private individuals.

This state of things lasted till the time of Philopator, who, in the fourth year of his reign, established the pre-eminence of the husband in the family by deciding that thenceforth all the transfers of property made by the wife should be authorised by the husband.[4]

These facts, certainly very curious, have seemed decisive to a number of sociologists who, with Bachofen, like to believe that in prehistoric times there has existed a gynecocratic period—an age of gold, when women reigned as mistresses, and of which the mythic Amazons were a survival. The very incomplete accounts that we possess of the condition

[1] Révillout, *Revue égyptienne*, 1880.
[2] *Id., ibid.* [3] *Id., ibid.* [4] *Id., ibid.*

and *rôle* of woman in Egypt do not seem to me to warrant the importance that is attached to them.

In barbarous, as in civilised societies, there are three great means of influence—religion, military power, and money. In ancient Egypt, Diodorus tells us, woman was judged unworthy of the priesthood, and therefore inferior from a religious point of view. She did not possess any warlike power. Neither monuments, nor writings, nor traditions make any mention of female warriors, analogous either to the Amazons of fable or those of the king of Dahomey. There remains the influence of money, doubtless an enormous influence in all societies where it can accumulate in the hands of certain individuals to the detriment of others. Now, everything proves that if in ancient Egypt women have more or less enjoyed great independence, and have even abused it so as to subject their husbands, they obtained it simply by the power of money.

Evidently the organisation of property and the laws of succession in Egypt permitted women to be rich or to become so, and in consequence to domineer over husbands less favoured in this respect. We shall see that in ancient Greece and Rome the same causes produced the same effects. Is it even necessary to go to ancient times to seek examples of feminine emancipation, even very insolent emancipation, based only on the dowry or fortune? We also have an abundance of plutocratic Amazons. But these facts are not incompatible with the legal subjection of women. If they seem to have been very common in ancient Egypt, it is because legislation did not meddle with marriage; and it must also be remembered that the demotic documents only mention, as is natural, the contracts of the upper or middle classes, the propertied classes, which, of course, are a minority.

So little was gynecocracy inscribed in the laws and customs of Egypt that a simple royal decree depriving women of the disposition of their property sufficed to cast them into the subordinate rank which they have occupied until the present time in all human societies, but which, perhaps, they will not always occupy.

Nevertheless, it is a noteworthy fact that in a society so rigid as the Egyptian, a minority of women should have

been able to obtain legally a great amount of independence; it constitutes a remarkable exception, and may, perhaps, be referred to the influence of the Berber races, which, according to Egyptian traditions themselves, played an important part in the foundation of primitive Egypt.

IV. *The Monogamy of the Touaregs and Abyssinians.*

We have already seen that our contemporary Kabyles, although of Berber origin, make the yoke of their wives very hard; but it may be admitted that, in this respect, they have been influenced by numerous conquerors. A certain emancipation of women seems to be a characteristic trait of Berber societies. Even at the present time, among the Touaregs of the Sahara, who have preserved their independence and the purity of their race better than the Kabyles, the rich woman enjoys a social position analogous to that of the ladies of ancient Egypt.

In spite of the Mussulman law, the Targui woman practically imposes monogamy on the man. She would immediately seek a divorce if her husband attempted to give her a rival.

Amongst the Touaregs filiation is still maternal, and confers the rank. "The child follows the blood of the mother;" the son of a slave or serf father and a noble woman is noble. "It is the womb which dyes the child," they say in their primitive language.[1] "Absolute mistress of her fortune, her actions, and her children, who belong to her and bear her name, the Targui lady goes where she will and exercises a real authority."[2] She seldom marries before the age of twenty, and she marries as she pleases, the fathers only intervening to prevent *mésalliances*. She eats with her husband, to whom, however, she owes obedience, and who can kill her in case of adultery.—(Duveyrier, 339-430.)

The Targui women know how to read and write in greater numbers than the men. It is well known, besides, that rudimentary instruction in reading and writing is widely spread among the Mahometan population of North Africa.

[1] Duveyrier, *Tôûareg du Nord*, 337. [2] *Id.*, *ibid.*

It is to the Targui ladies, says Duveyrier, that is due the preservation of the ancient Lybian and ancient Berber writing.[1]

Leaving domestic work to their slaves, the Targui ladies occupy themselves with reading, writing, music, and embroidery;[2] they live as intelligent aristocrats.

"The ladies of the tribe of the Ifoghas are renowned," says again Duveyrier, "for their *savoir-vivre* and their musical talent; they know how to ride *mehari* better than all their rivals. Secure in their cages, they can ride races with the most intrepid cavaliers, if one may give this name to riders on dromedaries; in order, also, to keep themselves in practice in this kind of riding, they meet to take short trips together, going wherever they like without the escort of any man."[3] Targui gallantry has preserved for the women of the tribe of Imanan, who are descended from the ancient sultans, the title of royal women (*timanôkalîn*) on account of their beauty and their superiority in the art of music.

They often give concerts, to which the men come from long distances decked out like male ostriches. In these concerts the women sing while accompanying themselves on the tambourine and a sort of violin or rebâza. They are much sought after in marriage, because of the title of cherif which they confer on their children."[4]

The Targui lady often sings in the evenings, improvising and accompanying herself on the rebâza. If she is married, says Duveyrier, she is honoured all the more in proportion to the number of her masculine friends, but she must not show preference to any one of them. The lady may embroider on the cloak, or write on the shield of her chevalier, verses in his praise and wishes for his good fortune. Her friend may, without being censured, cut the name of the lady on the rocks or chant her virtues. "Friends of different sexes," say the Touaregs, "are for the eyes and the heart, and not for the bed only, as among the Arabs."[5]

Such customs as these indicate delicate instincts which

[1] Duveyrier, *Touareg du Nord*, p. 387.
[2] *Id.*, *ibid.* p. 430.
[3] *Id.*, *loc. cit.* p. 362.
[4] *Id.*, *ibid.* pp. 345, 347.
[5] *Id.*, *loc. cit.* p. 429.

are absolutely foreign to the Arabs and to the Kabyles. They strongly remind us of the times of our southern troubadours, and of the *cours d'amour*, which were the quintessence of chivalry. But it is important to notice that with the Touaregs, as with the Provençals and the Acquitainers of the twelfth century, who may well have had Berber ancestors, these diversions and gallantries were for aristocrats and princes, and in no way prevented the general slavery of women. These customs are curious; they show a degree of moral nobility, and are worthy of note, but at the same time we must guard against according them a general value which they do not possess. It is important, also, to remark that the independence of the Berber lady, who is saved the trouble of grinding the corn, of cooking, etc., rests on the magic power of money. "By means of accumulation," says Duveyrier, "the greatest part of the fortune is in the hands of women"—(p. 339). In short, it is only by an extraordinary power of illusion that we can recognise in the relatively favourable situation of the Berber lady a case of Amazonian gynecocracy.

In Abyssinia, which also is not a gynecocratic country, the women enjoy very great liberty; their conduct is very dissolute, and their marriage very easily broken. Bruce, who first made known to us these curious customs, likens them to those of ancient Egypt. "In Abyssinia," he says, "the women live as if they were common to every one. They pretend, however, to belong, by principle, to one man only when they marry, but they do not act up to it."[1] Divorce is so easy in Abyssinia that Bruce says he has seen a woman surrounded by seven former husbands.[2] The most distinguished Abyssinian ladies have cicisbei, after the Italian fashion of old times. At their feasts, according to Bruce again, the lovers yield themselves publicly to each other. Their neighbours at table simply take care to hide them very imperfectly by improvising with their cloaks a waving partition.[3] The young women of the province of Samen, says Bruce, came alone to trade with the travellers.

[1] Bruce, *Hist. Univ. des Voy.*, t. xxiii. p. 358.
[2] Bruce, *Travels*, etc., vol. iv. p. 487.—A. d'Abbadie, *Douze ans dans la haute Éthiopie*, t. 1er. pp. 100, 128.
[3] Bruce, *Hist. Univ. des Voy.*, t. xxiii. p. 365.

"They were hard in their bargains, with the exception of one only, in which they seemed very reasonable and very generous. They agreed to give rather than sell their favours, alleging that long solicitations on one side and refusals on the other wasted time that might be more agreeably employed."[1] It is clear from this that the monogamic *régime* of the Abyssinians is more apparent than real, that it is much modified by the extreme cicisbeism, by the use of concubines, of which I have already spoken, and lastly by the abuse of divorce, turning it into a successive polygamy.

V. *Monogamy among the Mongols of Asia.*

Among the Asiatic Mongols monogamy is also not very strict. In Thibetan Himalaya polyandry seems to predominate. It is not rare, either, in Thibet proper, where, on the other hand, polygamy is not forbidden, for there is no rigid legislation in regard to marriage. Besides, in these countries, as in many others, girls enjoy complete liberty before marriage, and they use it without suffering at all in reputation.[2]

It is singular that in Lamaïc Thibet, in full theocracy, in a country where the prayers and the practices of religion enter into nearly all the actions of civil life, marriage escapes all ecclesiastical interference. In fact, the priests have nothing to do with it, and all the matrimonial ceremony, which is purely laïc, consists in a simple mutual engagement entered into by the interested parties before witnesses.[3]

This laïc anarchy of marriage in Thibet must no doubt be attributed to Lamaïc bigotry itself. The Lamas avoid women, holding marriage in contempt, and all the great functionaries, as well as many Thibetans of the other classes, are of the same opinion.[4] Religion does not concern herself with it; she disdains it, as in Egypt, which seems to show that a sufficient degree of religious

[1] Bruce, *loc. cit.*, t. xxiii. p. 255.
[2] Turner, *Hist. Univ. des Voy.*, t. xxxi. p. 437.
[3] *Id.*, *ibid.* t. xxxi. pp. 437, 454.
[4] *Id.*, *ibid.* p. 435.

madness hinders theocratic legislators from thinking of civil institutions.

But in regard to marriage, both civil and religious laws are always subordinate to the necessities resulting from the social condition and the proportion of the sexes. In Thibet, therefore, in spite of the entire liberty allowed to individuals, the marriage of the greatest number is monogamic quite as much as if the law had prescribed it.[1]

In Tartary the nomad Mongols have adopted for their matrimonial type monogamy tempered by the domestic concubinate. I have spoken previously of their "lesser wives," of their marriage by purchase with the ceremonial of capture. I need not, therefore, repeat all this. I will only note in passing that their girls have also very loose manners, which are not always corrected by marriage.[2] According to one of the most recent explorers of Mongolia, the proportion of the sexes in that country is the inverse of that in Europe. The women are much less numerous than the men. This may probably be the principal reason of the celibacy of the Lamas, and of the real monogamy of the greater number of laymen who do not belong to the aristocracy.[3]

Chinese marriage essentially resembles Mongol marriage, but with a more settled ritual and a more uniform legislation. It is also monogamic, with the palliative of the concubinate, the "lesser wives" of whom I have already spoken.[4] Besides this, the subjection of women in China is extreme. When a Chinaman has only daughters he is said to have no children.[5] The Chinese woman is submissive in all states, as a daughter to her parents, as a wife to her husband, and as a widow to her sons, especially to her eldest son.[6] (Pauthier, *Chine Moderne*, p. 239). The young Chinese girl has not even an idea that she may be consulted in the choice of a husband.[7] She is bought from

[1] *Lettres édifiantes*, t. xv. p. 200.
[2] Préjévalsky, *Mongolia*, t. 1er. p. 69.—Huc, *Tartarie*, t. 1er. p. 301.
[3] *Id.*, *ibid.* t. 1er. p. 71.
[4] Huc, *L'Empire chinois*, t. ii. p. 258.—Sinibaldo de Mas, *Chine et puissances Chrétiennes*, t. 1er. p. 51.
[5] Duhaut Cily, *Voyage autour du monde*, t. ii. p. 369.
[6] Milne, *Real Life in China*, p. 159. [7] *Id.*, *ibid.* p. 159.

her parents, and a part of the sum agreed on is paid when the contract is signed.[1] As in Mongolia, matrimonial arrangements are often settled, not only from the infancy of the future wife and husband, but even before their birth, on the hypothesis of a difference of sex.[2] These agreements are made by the fathers and mothers, or, in default of them, by the grandparents or nearest relatives.[3] Lastly, the women are excluded by law from inheritance, and kept as much as possible in seclusion, so that they scarcely see any one besides their parents.[5] By marrying, the young Chinese girl simply changes masters. "The bride," says a Chinese author, "ought only to be a shadow and an echo in the house." The married woman eats neither with her husband nor with her male children; she waits at table in silence, lights the pipes, must be content with the coarsest food, and has not even the right to touch what her son leaves.[6]

China is a country of very ancient civilisation, where the laws and rites have regulated everything, and consequently there exists a whole legislation with regard to marriage.

To begin with, conjugal union is forbidden between persons having the same family name,[7] and I shall have to return to this circumstance.

As in ancient Rome, the law prohibits marriage between slaves and free persons.[8] It absolutely forbids marriage to the priests of *Fo*, and to those of the *tao* sect.[9] It orders public functionaries not to contract marriage with actresses, comedians, or musicians.[10] It seems that in ancient times, in China as in Greco-Latin antiquity, the father had the excessive right to unmarry his daughter, for to remedy this abuse the Chinese law pronounces the punishment of a hundred strokes of bamboo on the father-in-law who should send away his son-in-law in order to re-marry his daughter to another.[11] The Chinese widow, no longer belonging to her original family, but to the family of her husband, can

[1] Huc, *Empire chinois*, t. ii. p. 255. [2] Milne, *loc. cit.* p. 151.
[3] Huc, *loc. cit.* p. 255.
[4] G. E. Simon, *La famille chinoise*, *Nouvelle Revue*, 1883.
[5] Milne, *loc. cit.* p. 154. [6] Huc, *Empire chinois*, t. 1er. p. 268.
[7] Pauthier, *Chine Moderne*, p. 238. [8] *Id.*, *ibid.* p. 238.
[9] *Id.*, *ibid.* [10] *Id.*, *ibid.* [11] *Id.*, *ibid.* p. 288.

be re-married by the latter.[1] Moreover, the contract of betrothal concluded between the parents having a legal value, the family of the betrothed man who dies before the conclusion of the marriage has the right to marry the bereaved *fiancée*, or false widow,[2] who, by-the-bye, is much honoured when she has the courage to devote herself to a celibate life.[3]

We have seen that Chinese women are excluded from inheritance; they have a right, however, in marrying, to a small dowry, either in money or furniture, but the value of it is optional. It must be at least a chest of drawers or a small *trousseau*, which the bridegroom is obliged to supply if the parents fail to do so. Moreover, he must also give the nuptial bed.[4] Primitive and even cruel as are the conditions and rules of Chinese marriage, the Chinese women submit to them not only without murmuring, but with a sort of devotion, broken in as they are by a long ancestral education. And besides, for the Chinese in general, it is a strict duty to marry, from a triple point of view—social, political, and religious. Everybody marries in the Celestial Empire, and the number of male celibates over twenty-four years of age is quite insignificant. If a suitable opportunity of marriage does not present itself, the parents, who are sovereign arbiters in this matter, do not hesitate to go to an orphanage to seek a son or daughter-in-law.[5]

In Japan, during the feudal age, the end of which we are now witnessing, marriage was nearly identical with Chinese marriage, and there would be nothing to say about it in particular, if during the last few years the fever of reformation, with which Japan is carried away, had not happily modified marriage, at least in practice, by giving the young girl a voice in the matter,[6] and by awakening in some Japanese consciences doubts on the subject of the prostitution of young girls. At the present moment, everything in Japan is being Europeanised, and the adaptation of our Civil Code to the old Japanese customs is only a question of time.

[1] E. Simon, *Famille Chinoise*, *Nouvelle Revue*, 1883.
[2] *Id.*, *ibid.*
[3] Milne, *loc. cit.* p. 153.
[4] E. Simon, *loc. cit.*
[5] *Id.*, *ibid.*
[6] Masana Maeda, *La Société iaponaise*, in *Revue Scientifique*, 1878.

VI. *Monogamy and Civilisation.*

The foregoing facts are sufficiently numerous to enable us to deduce certain conclusions from them. These facts, taken as they are from nearly all the non-Aryan races, prove in the first place that the monogamic *régime* is in no way the appanage of the superior races, for among the lowest of human races some are monogamic. In regard to marriage, we find that primordial conditions impose the various forms of sexual union, quite independently of the caprice of individuals, or of the degree of culture and social development.

In attempting to estimate the moral worth of a people, a race, or a civilisation, we are much more enlightened by the position given to woman than by the legal type of the conjugal union. This type, besides, is usually more apparent than real. In many civilisations, both dead and living, legal monogamy has for its chief object the regulation of succession and the division of property. With much *naïveté* and effrontery, many legislators have sanctioned polygamy in reality by recognising the domestic concubinate by the side of legal monogamy. As for the position of the wife who is reputed to be specially legitimate, it is often much inferior to that enjoyed by the woman who lives under other conjugal *régimes* which are theoretically less elevated. In the greater number of countries more or less monogamic, which I have just passed in review, woman, whether married or not, has been subjected to extreme subordination. In an exceptional case she acquires a certain independence, where, thanks to maternal inheritance, she can become possessed of personal or real estate. It is to money alone, and not to the moralising influence of monogamy, that woman in barbarous countries owes the power of attaining a certain independence, for the two peoples who have granted it to her, the Egyptians in antiquity and the Touaregs of our own day, lived or live under a legislation which authorises polygamy. It is important also to notice that in the valley of the Nile, and in the Sahara, feminine emancipation is only the privilege of those women who belong to the ruling and propertied classes.

Upon the whole, in every country and in every time, woman, organically weaker than man, has been more or less enslaved by him, unless in the case where legislation has allowed her to use an artificial force to serve her as a shield. This fictitious force, before which virile brutality has lowered its flag, has been money, wherever the laws regulating succession have permitted women to raise themselves to the dignity of proprietors.

A similar lesson will be given us by the study of the monogamic *régime* among the white races of Asia and of Europe. There also we shall see riches serve woman as a defensive, and sometimes even offensive weapon, against the severity of laws and customs.

CHAPTER XII.

HEBREW AND ARYAN MONOGAMY.

I. *Monogamy of the Races called Superior.*—The monogamic ideal and the monogamic reality.

II. *Hebrew Marriage.*—Monogamy and concubinage—Position of the wife—The virtuous woman of the Book of Proverbs—Obligatory virginity—The levirate.

III. *Marriage in Persia and Ancient India.*—Marriage in the Avesta—Marriage in India—General monogamy—Extreme subjection of the wife—Purchase of the wife—Matrimonial prohibitions—The ideal spouse—Marriage in modern India.

IV. *Marriage in Ancient Greece.*—Wives and concubines—Low position of the wife—Marriage in Sparta—Celibacy chastised—The young Greek girl assimilated to a thing—Dowry—The wife emancipated by money.

V. *Marriage in Ancient Rome.*—Marriages of children—Relative liberty of the Roman woman—The *Patria potestas*—The *Manus*—Three kinds of marriage—The rights of the husband—The case of Cato the Elder—The *jus connubii*—The dowry and its effects.

VI. *Barbarous Marriage and Christian Marriage.*—Marriage among the Germans in the Middle Ages, among the Saxons of England—Marriage according to Christianity.

I. *Monogamy of the Races called Superior.*

After a long journey of exploration through the inferior forms of the sexual union amongst mankind, we have in the preceding chapter begun the study of monogamy, which all the superior races have more or less adopted in their legislation.

It is impossible to deny that monogamy is theoretically

nobler than the other matrimonial forms. Nothing can be more beautiful than the union of two intelligent and refined beings freely associating their lives after ripe reflection "for better, for worse," as the marriage service of England has it. But the reality is often very different from this poetic ideal. Even amongst the most highly civilised peoples, this spontaneous, disinterested, devoted union, based on moral and intellectual sympathies, is very rare; it does not exist in civilisations still partly barbarous, whose monogamy easily accommodates itself to the subjection of women, however extreme. We shall see that it is so, in studying this matrimonial type amongst the Hebrews at first, and afterwards amongst the Aryan races, that is to say, amongst the human types which are reputed *par excellence* Superior.

II. *Hebrew Marriage.*

The Hebrews seem to have been alone among the Semites in adopting monogamy, at least in general practice. Moreover, the Bible tells us that concubinage was not forbidden to God's chosen people. In speaking of the daughter sold by her father to a rich man, the book of Exodus used language sufficiently explicit on this point—"If she please not her master, who hath betrothed her to himself, then shall he let her be redeemed: to sell her unto a strange nation he shall have no power. And if he have betrothed her unto his son, he shall deal with her after the manner of daughters. But if he take to him another wife, her food, her raiment, and her duty of marriage, shall he not diminish."[1] The book of Genesis indeed tells us that "a man shall leave his father and mother, and shall cleave unto his wife; and they twain shall be one flesh;"[2] but this famous verse seems to indicate the violenceof the love rather than monogamic and indissoluble marriage.

Doubtless the subjection of the Jewish woman was not extreme, as it is in Kabyle; it was, however, very great. Her consent to marriage was necessary, it is true, when she had reached majority, but she was all the same sold to her husband. We must note, nevertheless, that she had

[1] Exodus, xxi. 8-10. [2] Genesis, ii. 24.

a recognised right of ownership, and that the property of the husband was security for that of the wife and for her dowry; but the husband none the less held the wife in strict dependence. The song of the virtuous woman at the end of Proverbs is generally quoted as a sublime portrait of the Jewish wife by all those who are still hypnotised by the prestige of the so-called holy books. However, in reading these celebrated verses with an unprejudiced mind, we hardly find more than the portrait of a laborious servant, busy and grasping—"She seeketh wool and flax, and worketh willingly with her hands. . . . She riseth while it is yet night, and giveth meat to her household, and a portion to her maidens. She considereth a field, and buyeth it; with the fruit of her hands she planteth a vineyard. She girdeth her loins with strength, and strengtheneth her arms. . . . Her candle goeth not out by night. . . . She eateth not the bread of idleness." We shall see later that the wife, though she might gain much money, which seems to have been the ideal of the Hebrew husband according to the Proverbs, was repudiable at will, with no other reason than the caprice of the master who had bought her. Finally, and this is much more severe, she was always obliged to be able to prove, cloths in hand, that she was a virgin at the moment of her marriage, and this under pain of being stoned. Let us listen to the sacred book—"If any man take a wife, and go in unto her, and hate her . . ." and seeking a pretext to repudiate her, he imputes to her a shameful crime, saying, "I took this woman, and when I came to her, I found her not a maid . . . her father and mother shall take her and shall represent to the elders of the city in the gate the tokens of the damsel's virginity." Of what kind were these proofs? The following verses tell us, "They shall spread the cloth before the elders of the city. And the elders of that city shall take that man and chastise him, and they shall amerce him in an hundred shekels of silver, and give them unto the father of the damsel. . . . But if this thing be true, and the tokens of virginity be not found for the damsel, then they shall bring out the damsel to the door of her father's house, and the men of the city shall stone her with stones that she die; because she hath wrought folly in Israel, to play the whore

in her father's house; so shalt thou put evil away from among you."[1] If we add to the preceding, that by the law of levirate, the childless widow, whether she wished or not, was awarded to her brother-in-law, we shall be enlightened as to the unenviable position of the married woman under the Hebrew law.

III. *Marriage in Persia and Ancient India.*

Of the conjugal customs of the ancient Persians we know little. The only formal prescription that we find in the Avesta is a strict prohibition against marrying an infidel. The Mazdean who commits such a crime troubles the whole universe: "he changes to mud a third of the rivers that rush down the mountain sides; he withers a third of the growth of trees and of herbs which cover the earth; he takes from pure men a third of their good thoughts, of their good words, of their good actions; he is more noxious than serpents and wolves."[2]

On Indian marriage we are better informed, at first by the Code of Manu, and then by modern travellers. India has early practised mitigated monogamy. Polygamy and concubinage were the privilege of the Brahmins and rich Kchatriyas; but the mass of the nation generally lived in monogamy, though nevertheless imposing on the married woman a most humiliating position. Manu proclaims aloud the necessary dependence and incurable inferiority of the weaker sex: "If women were not guarded, they would bring misfortune to two families." "Manu has bestowed on women the love of their bed, of their seat, and of adornment, concupiscence, anger, bad inclinations, the desire to do evil, perversity."[3] "A little girl, a young woman, and an old woman ought never to do anything of their own will, even in their own house." "During her childhood a woman depends on her father; during her youth, on her husband; her husband being dead, on her sons; if she has no sons, on the near relatives of her husband; or in default of them, on those of her father; if

[1] Deut., ch. xxii., ver. 13-21. [2] Hovelacque, *L'Avesta*, p. 396.
[3] *Code of Manu*, book ix. pp. 5-17.

she has no paternal relatives, on the sovereign. A woman ought never to have her own way."[1]

Given such an utter subordination of woman, it is self-evident that there would be no question of her choosing a husband. It is the father's duty to marry his daughter; and he need not wait till she has reached puberty: "A father must give his daughter in marriage to a young man of agreeable appearance, and of the same rank, according to the law, although she may not have attained the age of eight years, at which he ought to marry her."[2] However, if the father neglects the prime duty of marrying his daughter, the law ordains that the latter shall proceed to do it. Marriage is a sacred duty: "Let a girl, although adult, wait three years; but after that period, let her choose a husband of the same rank as herself."[3] The girl is then free, and her husband in marrying her owes no payment to the father: "The father has lost all authority over his daughter in delaying for her the time of becoming a mother."[4] Girls cannot be married too soon; at eight years old they are given a husband of twenty-eight; at twelve years, a man of thirty.[5] Some verses, in contradiction to that which I have just now quoted, forbid the father from receiving any gratuity whatever in marrying his daughter, not even a cow or a bull: "All gratuity, small or large, constitutes a sale."[6] But the prohibition to sell his daughter, though still very little observed, is evidently of posterior date; and in India, as in all other countries, the daughter has been esteemed at first as merchandise. The law imposes at times very curious restrictions on a man who is intending to marry. He must not take a girl with red hair, or bearing the name of a constellation, of a river, a bird, or a serpent.[7] He must not, under pain of hell, marry before his elder brother.[8] Above all, he must not marry below his rank. To marry a woman belonging to the servile class is, for the Brahmin or the Kchatriya, an enormous crime, which lowers him to the rank of the Soudras.[9] It is an unpardonable sin: "For him who drinks the foam of

[1] *Code of Manu*, v. pp. 147, 148.
[2] *Ibid.*
[3] *Ibid.* ix. p. 90.
[4] *Ibid.* p. 93.
[5] *Ibid.* p. 94.
[6] *Ibid.* iii. pp. 51, 53.
[7] *Ibid.* book iii.
[8] *Ibid.* book iii. pp. 171, 172.
[9] *Ibid.* pp. 14, 15.

the lips of a Soudra, or who has a child by her, there is no expiation declared by the law."[1] He descends to the infernal abode, and his son loses caste. As for the son of a Brahmanic woman and a Soudra, he is a Tchandala, the vilest of mortals.[2] The young Brahmin, after having received the authorisation of his spiritual director, and having purified himself by a bath, must marry a woman of his own class, who is well made, who has a fine down over her body, fine hair, small teeth, limbs of a charming sweetness, and the graceful movement of a swan or a young elephant.[3] But, however the wife may be chosen, she is held in a state of servile submission. "A wife," says the Code, "can never be set free from the authority of her husband; neither by sale nor by desertion." "Once only a young girl is given in marriage; once only the father says, I give her."[4]

Taken as a whole, these antique precepts are still observed in India. In general, monogamy prevails, but the married woman is none the less kept in a state of abject subjection. It is shameful, says Somerset, for a virtuous woman to know how to read and dance; these futile accomplishments are left to the bayadere. "Servant, slave," are the habitual appellations used by the husband in addressing his wife, who replies by saying "Master, lord," who must take care not to call her husband by his name,[5] and has not the right to sit at his table.[6] It is the parents who negotiate the marriage, without any regard to the tastes of the future husband and wife, and thinking only of rank and fortune.[7] A daughter is always married, or rather sold, in infancy, often to a sexagenarian Brahmin, and before she is of age to manifest any preference.[8]

These accounts, which are as authentic as possible, enable us to estimate the Hindoo marriage. However monogamic it may generally be, it is very inferior from a moral point of view. The tyrannical right left to the husband, his unlimited power, the servitude of the wife,

[1] *Code of Manu*, book iii. p. 19.
[2] *Ibid.* p. 17.
[3] *Ibid.* pp. 4-10.
[4] *Ibid.* ix. pp. 46, 47.
[5] Somerset, *Hist. Univ. des Voy.*, t. xxxi. p. 352.
[6] *Id.*, *ibid.* p. 341.
[7] *Id.*, *ibid.* p. 350.
[8] *Id.*, *ibid.* p. 350.—*Lettres édifiantes*, t. x. p. 23.

yielded or negotiated in infancy, the pride of caste and the care for wealth outweighing all other considerations, proclaim loudly enough that matrimonial legislation in India has been the regulation, for the man's profit only, of instincts of a very low order.

IV. *Marriage in Ancient Greece.*

In primitive Greece the position of woman was little better. On one hand, the *Iliad* tells us that the epithet "woman" thrown at a man was the most contemptuous insult;[1] on the other hand, we have seen that the girl was purchased by the husband, either by presents or by services rendered to the father;[2] in short, that the husband might have domestic concubines with the sole reservation that their children did not inherit from him.[3] In the first chant of the *Odyssey* the severe apostrophe of Telemachus to his mother proves also that in the absence of the husband the wife was humbly submissive to her sons. "Go to thy chamber; attend to thy work; turn the spinning wheel; weave the linen; see that thy servants do their tasks. Speech belongs to men, and especially to me, who am the master here."[4] Penelope, like a well-trained woman, meekly allows herself to be silenced and obeys, "bearing in her mind the sage discourse of her son."

In later times the virtuous woman was shut up in the gyneceum, where she could only receive her parents or the friends authorised by her husband.[5] She was not even admitted to festivities. But, while the wife was semi-cloistered in the conjugal house, the husband could at will frequent and court the hetaïræ (ἑταῖραι), and the strangers (ξέναι) with whom the citizens of Athens had not the *jus connubii*, and who were not admitted like the well-born or native Athenian woman (ελευθέρα) to the thesmophors.[6]

It is evident that at Athens primitive marriage was regulated by the man with very little heed to the tastes or preferences of the woman. At Sparta it was the

[1] *Iliad*, ii., vii., viii.
[2] Goguet, *Orig. des Lois*, t. ii. p. 60.
[3] Cavallotti, *La Sposa di Menecle* (notes), p. 246.
[4] *Odyssey*, xiv.
[5] *Ibid.* i.
[6] *Id.*, *ibid.* p. 239.

sentiment of strict and zealous patriotism which inspired Lycurgus in all his regulations regarding marriage. The obligation of marriage was legal, like the military service. The young men were attracted to it by making them assist at the gymnastic exercises of naked young girls. "This was an incentive to marriage, and, to use Plato's expression, drew them almost as necessarily by the attraction of love as a geometrical conclusion is drawn from the premises."[1] In the supreme interest of population, love was forced on young men, but it was for the sake of fertility. The young married couple were not allowed to meet except in secret until the first pregnancy.[2] It was praiseworthy for an old husband to lend his young wife to a handsome young man, by whom she might have a child.

In our own day it is not very rare, particularly in France, to see poor young men marry rich old women. Solon did not permit this conjugal prostitution of man at Athens. "A censor," says Plutarch, "finding a young man in the house of a rich old woman, fattening as they say a partridge fattens by his services to the female, would remove him to some young girl who wanted a husband."[3] At Sparta Lycurgus went as far as to put hardened celibates under the ban of society. In the first place, they were not permitted to see these exercises of the naked virgins; and the magistrates commanded them to march naked round the market-place in winter, and to sing a song composed against themselves. . . . They were also deprived of that honour and respect which the young pay to the old.[4]

The young Greek girl could not dispose of her person any more than the Chinese or Hindoo woman could. She was married by her father; in default of her father, by her brother of the same blood; in default of a brother, by a paternal grandfather.[5] The right of brothers who were heirs to their father to marry their sister was not even exhausted by a first marriage.[6] The father of the family had the power either to marry his daughter during his lifetime, or

[1] Lycurgus, xxvi.
[2] Plutarch, *Apophthegms of the Lacedemonians.—Demandes Romaines*, lxv. [3] Solon, xxxviii. [4] Lycurgus, xxxvii.
[5] Demosthenes, cf. Step. ii.; in Cavallotti, *loc. cit.*
[6] Isaeus, *Heritage of Menecles*, §§ 5-9.

to bequeath her by will, as well as her mother, who was assimilated, like her, to chattels or property. "Demosthenes, my father, bequeathed his fortune, which was fourteen talents, myself, aged seven years, my sister, aged five years, and our mother. At the moment of dying, when asked what he would have done with us, he bequeathed *all these things* to this Aphobus and to Demophontes, his nephews; he married my sister to Demophontes, and gave at once two talents."[1] "In the same way," says Demosthenes again, "Pasion dying, bequeathed his wife to Phormion."[2] It might happen that the daughter or the wife were by law one body with the estate. Thus a daughter, in default of male heirs, belonged to the relation who would have inherited in her stead and place, if she had not lived.

If there were several relatives in the same degree of succession, the daughter was to marry the eldest of them. Further still, she was obliged in this case to quit her husband, if previously, and even with paternal authorisation, she had contracted marriage.[3] In Greece, to safeguard or conquer her independence, a woman had no other resources than the seduction of her sex and the love she could inspire. She had early recourse to these defensive weapons, for Aristotle thinks it his duty to put young men on guard against the excess of conjugal tenderness and feminine tyranny, the habit which enchains the man to his wife.[4] At length in Greece, as it had happened in Egypt, money finished by protecting the woman much more efficaciously, and even by giving her sometimes the advantage on the conjugal field of battle. Solon, who knew Egypt, began by decreeing the absolute poverty of the married woman. "The bride was to bring with her only three suits of clothes, and some household stuff of small value, for he wished marriages to be made without mercenary or venal views, and would have that union cemented by love and friendship, and not by money."[5] But this primitive legislation could not stand against the combined action of the affection of the girl's parents, her own desire of independence, and lastly, the cupidity of the husband, and

[1] Demosthenes, *Against Aphobus.*
[2] *Id.*, *For Phormion.*
[3] Isaeus, *Succession of Pyrrhus.*
[4] *Nic. Ethics*, viii. 14.—*Econom.*, i. p. 4.
[5] Solon, xxxvii.

thus the practice of the dowry became general. This dowry was constituted before marriage by a public act.[1] Securities and bonds were given to assure the dowry and the conditions of marriage. The dowry was mortgaged on the husband's property, and returned to the wife on the dissolution of the marriage. When the woman could shelter herself behind the shield of the dowry she was much more respected, and she even sometimes tyrannised in her turn. Aristophanes, Menander, Lucian, etc., pour out endless bitter criticisms on the haughty and extravagant rich woman.

In the comedy of *The Clouds* the good Strepsiades cries: "I led so happily in the country a good simple life, without vexation or care, rich in bees, in sheep, and in olives! Then I married the niece of Megacles, son of Megacles. I was of the country, she of the town; she was a haughty, extravagant woman, a true Cesyra. The wedding day, when I lay down by her, I smelt the wine, the cheese, and the wool; she cares for perfumes, saffron, tender kisses, expense, good cheer, and wanton transports. I will not say that she was idle—no—she worked hard at ruining me." According to Menander, religion served as an excuse to women for enormous expenses. Under the pretext of piety they ruined their husbands by religious sacrifices accompanied with perfumes, with golden clasps for the sandals, and female slaves ceremoniously ranged in a circle.[2]

One poor hen-pecked husband groans in these terms: "Cursed be the first man who invented marriage, and then the second, and the third, and the fourth, and all those who imitated them." One old husband laments: "I have married a witch with a dowry. I took her, to have her fields and house, and that, O Apollo, is the worst of evils."[3] Listen again to this one: "If being poor, you marry a rich woman, you give yourself a mistress and not a wife; you reduce yourself to be at the same time a slave and poor" —(Anaxandrides).[4]

To sum up, in ancient Greece marriage implied at first

[1] Isaeus, *Succession of Pyrrhus.*
[2] *Mysogyne*, Fr. 3.
[3] Menander, *The Necklace.*
[4] Cavallotti, *La Sposa di Menecle*, p. 158.

the complete slavery of the wife, who was treated as a thing; then by degrees conjugal customs were mitigated, and the wife became a person, and even a proprietor, whom her dowry or personal fortune could protect. Thence-forward money produced its usual effect on inferior characters: it debased or infatuated individuals who were without moral nobility; cupidity blinded certain men; the insolence of money intoxicated certain women. But this only occurred among the ruling classes, and the fate of husbands reduced to conjugal servitude by love of a large dowry does not concern us here.

The important feature in Greek marriage is, that the first legislators regarded it solely from the point of view of increase of population, and held individual liberty, especially that of the woman, very cheaply. Whatever we may think of this legal tyranny, it attained its end perfectly. The small republics of ancient Greece overflowed with men; thus Attica had four thousand one hundred and sixty-six inhabitants to the square league—that is to say, the population was three times more dense than that of France at present.

V. *Marriage in Ancient Rome.*

In its general features Roman marriage does not greatly differ from Greek, but its evolution has been more complete, and the legislation on the subject is better known to us. Marriages of children, especially of little girls, were the rule at Rome, since the nuptial majority of girls was fixed at twelve years. But they were often betrothed, and even married, before that age. Vipsania Agrippina, daughter of Agrippa and of Pomponia, was promised to Tiberius from her first year.[1] The *Digest* authorised betrothal at the age of seven.[2]

In betrothing his daughter the father contracted a civil obligation, sanctioned at first by an action for damages, and later by infamy. Every woman of twenty, if she was

[1] Friedländer, *Mœurs romaines*, etc., t. 1er. pp. 251-254.
[2] *Id.*, *ibid.* t. xxiii. pp. 1-14.—*Avis de Molestion.*

neither married nor a mother, incurred the punishment decreed by Augustus against celibacy and childlessness.[1] We are indeed told in Roman legislation that the consent of the girl was necessary before passing finally to betrothal and marriage. But it is evident that the consent of a child of twelve years, or even less, was illusory; in reality, the young Roman girl was married by her parents.[2] The young wife was still such a child, that on the day of her wedding she took a ceremonious leave of her playthings and dolls, offering them up to the gods. In reality, it was not the wife who made the engagement, but the persons in whose power she found herself.[3]

Nevertheless, Roman customs conceded to women a certain liberty of manners which the Greeks would not have tolerated. The Roman woman walked in the streets, went to the theatre with the men, shared in banquets, etc.; yet she was, especially in primitive Rome, subjected first to her father and then to her husband. And, besides, public opinion obliged the woman to use in great moderation the practical liberty that was left to her. The famous epitaph of the Roman matron—*domum mansit; lanam fecit*—is well known. This epitaph may perhaps exaggerate, but it does not lie. Thus Suetonius tells us that the daughters and grand-daughters of Augustus were compelled to weave and spin, and that the Emperor usually wore no other garments but those made by the hands of his wife and sister.[4]

Legally, the Roman wife was the property of her husband, who treated her, not as his equal, but as his child. At Rome, also, conjugal union had been looked at chiefly from the point of view of procreation (*Liberorum quærendorum causâ*). The wife who was the mother of three children acquired a certain independence; she could make a will even during the lifetime of her husband, and did not need to have recourse to a trustee.[5] But the subjection of woman was very great. The father, invested with the *potestas*, could sell his child to a third party, *in mancipium*. The

[1] Friedländer, *loc. cit.* p. 351.
[2] Plutarch, *Lycurgus and Numa compared*, 4, 2.
[3] Friedländer, *loc. cit.* p. 356.
[4] Suetonius, *Octavius*, lxiv.
[5] Plutarch, *Numa Pompilius*, xvii.

mancipium, which was almost a right of propriety, passed afterwards to the heirs of the owner.

We have seen that the *pater familias* had the right to marry his daughter without consulting her, but he enjoyed a right more excessive still, that of re-marrying her when his son-in-law had been absent for three years.[1] It was Antoninus only who thought of depriving the father of his right to annul the marriage of his daughter. To the *potestas* of the father succeeded the *manus* of the husband. The woman *in manu* was considered legally as the daughter of her husband, and therefore as the sister of her children. If the husband was himself the son of a family, the wife *in manu* was held as grand-daughter of the father of the family. This entailed for her the extinction of paternal power (on her own side), and of guardianship and the rights of relationship with the male members of her father's family. In the marriage with *manus* the husband became the proprietor of all the dowry of his wife. The father, however, could stipulate that the dowry should be returned to him if his daughter died without children or was repudiated. The *leges Julia* and *Papia* had, in fact, imposed on the father the obligation of giving a dowry to his daughter; but the dowry could be appointed by third parties or by the woman herself, if she was *sui juris*, and then also she had the right to stipulate for some reservations.

This terrible right of *manus* was acquired by the husband with every form of marriage, even the grossest of all, the *usus*, or simple cohabitation during one year; but the wife could avoid the *conventio in manum* by passing three nights in the year out of the conjugal domicile. The *manus* invested the husband with a large right of correction over his wife, though in very grave cases he was to assemble the family tribunal, which included the children of cousins-german. These family tribunals took cognisance even of murder committed by the wife, and they were still in use under the emperors.[2] On the other hand, the Roman husbands did not let their legal right of beating their wives fall into desuetude, for Saint Monica consoled the wives of her acquaintance whose faces showed marks of marital

[1] Plautus, *Stychus*.

[2] *L'Italie ancienne*, par MM. Duruy, Filon, etc. (*passim*).

brutality, by saying to them: "Take care to control your tongues. . . . It is the duty of servants to obey their masters. . . . You have made a contract of servitude."[1]

There were at Rome three kinds of marriages, which I have already named—1st, The *usus*, resulting from a simple continuous cohabitation, without contract or ceremony, a sort of Tahitan marriage; 2nd, the *coemptio* or purchase, of which I have spoken at length—that is to say, the legal regulation of the primitive marriage by purchase, in use all over the world at the origin of civilisations. Coemption, without any palliatives, delivered the wife's body and goods to her husband; 3rd, the *confarreatio*, or aristocratic marriage, in which the high Pontiff of Jupiter gave, in the presence of ten witnesses, a cake made of flour, water, and salt to the bride and bridegroom, who ate it between them. The *manus* was conferred on the husband in the marriage by confarreation, the same as in the marriage by *usus* and *coemptio*. We must note that at Rome, as in Greece, the religious ceremony was in no way essential to the marriage, which was a laic and civil institution in the first place.[2]

These three forms of marriage very probably represent the evolution of the conjugal union in ancient Rome. The *usus*, or free cohabitation, must have been the commencement; then came the purchase of the wife, the *coemptio*, and at length the solemn marriage or *confarreatio* of the patricians. But marriage with the husband's right of *manus* subsisted for a long time, and it conferred on him all the customary licence of savages of every country, notably that of lending the wife, and this exorbitant right endured till the best days of Rome, since the virtuous Cato of Utica used it still in lending his wife Martia to his friend Hortensius.

This fact is curious, and deserves attention. Hortensius began by asking for the loan of Cato's daughter, Portia, already married to Bibulus, and the mother of two children. It was, says Plutarch, with the object of selection, that he might have a child of good race; he promised to return her afterwards to her husband. On the refusal of Cato, Hortensius fell back on Martia, Cato's own wife, who was at the time *enciente*. Cato was not at all shocked at the

[1] Saint Augustine, *Confessions*, book ix. ch. ix.
[2] R. Cubain, *Lois civiles de Rome*, p. 179.

proposition, but referred it, however, to Philip, his father-in-law, who also saw no harm in it. A contract was therefore concluded between Cato, Hortensius, and Philip; and Martia, whom no one thought of consulting, was yielded to Hortensius, and afterwards taken back, at the death of the latter, by Cato. She was then the heir of Hortensius, and Cato had not the least scruple in receiving her back with her money at the same time.[1]

To any one not versed in ethnographical sociology these customs seem improbable. Doubt has been cast on this story of Hortensius and Cato, though it is attested by the *Anti-Cato* of Julius Cæsar, on which Plutarch relies; but it has nothing extraordinary for us. We know that at first woman was everywhere the absolute property of the man. The *manus* of the Roman husband was in the main only an attenuated form of primitive conjugal right, which we know included the power to lend, barter, or cede the wife without consulting her. The case of Cato is then only a survival of preceding ages.

Necessarily brief and incomplete as the *résumé* must be that I can here give of conjugal legislation at Rome, it will suffice, I hope, to give a clear idea of what Roman marriage was. I should add that the law, inspired by the old patriotic spirit and the prejudices of caste, limited the right of marriage, the *jus connubii*. The *justes noces* were at first an aristocratic privilege. The plebeians coupled *more ferarum*. At length the *jus connubii* extended to marriages between Latin and Roman, Latin and Latin, and even foreigner and foreigner. The child followed the condition of the mother, which seems to be a survival of the ancient maternal family. Another vestige of the same kind is found in the legal position of *spurii*—that is to say, of children born of a marriage which is either prohibited or incestuous or bigamous. These children, irregularly conceived, have a mother, but no legal father; they do not come under the paternal power of the father, like the child of lawful marriage, and cannot be legitimated.[2]

The study of the transformations that Roman marriage underwent from the time of Numa to that of the emperors

[1] Plutarch, *Cato of Utica*, xxxvi. lxviii.
[2] Domenget, *Institutes de Gaius*, i. 64.

is most interesting; for we can follow a complete evolution. in regard to it which has never been so complete in any other country. At first we find conjugal anarchy, the capricious union or *usus*, which could be, and which was in fact, often polygamous, as the ulterior persistence of the concubinate proves; then the marriage by capture, of which the trace remained in the marriage ceremony; then the marriage by purchase, the coemption, with its ordinary consequence, the servitude of the wife, which even the solemn marriage or confarreation did not abolish. At length this brutal law of the primitive ages relaxes. The law which holds the woman under paternal power (*patria potestas*) is turned round. The father himself gives his daughter *in mancipium* to a third party, who afterwards enfranchises her. Sometimes it is the *patria potestas* which is a check to the *manus* of the husband. The wife, in marrying, without being subject to the *manus*, remains subject to her father, who can even claim her again.

But the institution of the dowry as obligatory and inalienable by the husband, the power of the woman to marry while remaining in the paternal family, to have her paraphernalia, to inherit property of her father, to control both of these, and also the great facility of divorce, ended by rendering the Roman, or at least the patrician matron, almost independent. Under the empire Roman marriage had become in fact a sort of free union, in which money considerations played the predominant part. Plautus already speaks of the dotal-slave, a creature of the wife's, managing her property and ruling the husband—

"*Argentum accepi, dote imperium vendidi.*"[1]

Horace mentions the wife ruling by means of her dowry—"*dotata regit virum conjux*" (*Od.* iii. 18). Martial declares that he wishes no rich marriage; it does not suit him, he says, to be married by his wife—"*uxori nubere nolo meae*" (*Epig.* viii. 12). From Seneca to Saint Jerome, who both speak of it, the dotal-slave is advantageously replaced by th frizzed steward (*Procurator calamistratus*) managing the

[1] *Asinaria*, v. 70-72.

affairs of my lady.[1] They went further still, and as it happens in Russia at the present day, they concluded fictitious marriages; but at Rome, these false marriages, contracted for ready money, had no other object than to elude the laws against celibacy.[2]

VI. *Barbarous Marriage and Christian Marriage.*

In order to avoid being too incomplete in this rapid survey of marriage among all races, I will say a few words on barbarous marriage outside the Greco-Roman world.

The barbarians of ancient Europe, more or less monogamous, have differed little from any others. Their marriage resembles that of their fellows of all races and all times; that which chiefly characterises it is the subjection of woman.

Barbarous women, says Plutarch, neither ate nor drank with their husbands, and never called them by their name.[3] Among the Germans, who were more often monogamous, as Tacitus says,[4] the wife was purchased; then the purchase-money was transformed into a dower accorded to the bride under the name of *morgengabe* or oscle (*osculum*), the price of the first kiss.

German betrothals, which could only be annulled for a serious reason, strongly resembled Latin ones—that is, they were a sale of the girl in anticipation by her legal owners. It was necessary for the girl to have the consent of her father, or her nearest relative, for her marriage. As widow, having been purchased, she belonged to the relatives of her dead husband, and could not marry again without their leave.[5] The feudalism of the Middle Ages was careful not to emancipate the woman, and she remained a minor, or even less, since the Code of Beaumanoir says (titre lvii.)—"Every husband can beat his wife when she will not obey his commands, or when she curses him or contradicts him,

[1] Seneca, *De matrim.*—Saint Jerome, *Letters*, 54, 13, 79, 9.
[2] Friedländer, *Mœurs*, etc., t. 1er. p. 360.
[3] Plutarch, *On Herodotus*, xxi.
[4] *Germania*, xviii.
[5] Laboulaye, *Hist. de la succes. des femmes.*

provided that he does it moderately, and that death does not follow in consequence." Among the Saxons, the Burgundians, and the Germans in general, the widow was subjected to the rule of her eldest son as soon as he had attained the age of fifteen.

In the Middle Ages the woman surprised in committing adultery might be executed by her husband, who even had the right to call in the aid of her son.[1] In the ninth and tenth centuries, however, among the Saxons in England, an advance that was quite exceptional took place. The young girl could marry herself, was not repudiable at will, had her own property and her keys, and the penal law of her husband ceased to weigh upon her.[2] This progress was quite local, and operated spontaneously, quite independently of Christian influence. In fact, Christianity has only emancipated women spiritually, and its real influence on marriage has been injurious. Doubtless the Christian wife might hope to become a seraph in the next world, but in this she was only a servant or a slave. In Greco-Roman antiquity marriage had been considered, as it ought to be, a civil institution. Legislation, more or less sensible and intelligent, regarded it simply from the point of view of population.

Christianity, which taught that the earthly country was of no account, and taxed with impurity all that related to sexual union, made marriage a sacrament, and consequently an institution quite apart from humble considerations of social utility. All sexual union outside marriage was reputed criminal; the ideal preached to women was the mystic marriage with God. The pious Constantine increased all the penalties against sexual crimes. Adultery became again a capital offence; the woman guilty of marrying a slave was condemned to death;[3] marriage was declared indissoluble; second marriages were blameworthy. At the same time the fathers of the Church and the preachers did not cease to utter their thunders against woman, disparaging her, and abusing her as an impure creature, almost devilish. This encouraged the severe legislation of the barbarians in

[1] *Summa Cardinalis Hostiensis*, lib. v., *De Adulteris.*
[2] Wake, *Evolution of Morality*, vol. i. p. 381.
[3] *Code Theod.*, lib. vi., tit. 1er.

conjugal matters. I have previously mentioned some traits of these brutal laws. I shall return to them in speaking of questions connected with marriage, which remain still to be treated of—adultery, divorce, and widowhood. We shall then see how hurtful the influence of Christianity has been on marriage, and we shall come to the conclusion that in order to manage earthly affairs well, it is not good to keep our looks constantly raised to the skies.

CHAPTER XIII.

ADULTERY.

I. *Adultery in General.*—Adultery considered as a theft.

II. *Adultery in Melanesia.*—Indulgence and severity of Tasmanian and Australian husbands—Adultery at New Caledonia.

III. *Adultery in Black Africa.*—Among the Hottentots, at the Gaboon, in middle Africa, in Abyssinia.

IV. *Adultery in Polynesia.*—Punishment of unauthorised adultery—The "fire-lighter" at Noukahiva.

V. *Adultery in Savage America.*—Among the Esquimaux—Special penalty among the Redskins—Obscene retaliation.

VI. *Adultery in Barbarous America.*—Among the Pipiles in Yucatan, in Mexico, in Peru, in Guatemala.

VII. *Adultery among the Mongol Races and in Malaya.*—Among the nomad Tartars, in Thibet, in China, in Japan, in Malaya.

VIII. *Adultery among the Egyptians, the Berbers, and the Semites.*—Penalty of adultery in ancient Egypt; among the Hebrews, the Arabs, and in Kabyle.

IX. *Adultery in Persia and India.*—Penalty of adultery in Persia—Adultery in the Code of Manu—Fraternal and authorised adultery—The obligation of a double vengeance.

X. *Adultery in the Greco-Roman World.*—Legal adultery according to Lycurgus and Solon—Punishment of illegal adultery—Adultery in primitive Rome—*Lex Julia*—Legal vengeance of the father—Obscene retaliation—Laws of Antoninus, of Septimus Severus, and of Constantine.

XI. *Adultery in Barbarous Europe.*—Among the Tcherkesses, the Visigoths, the Francs, under Charlemagne—Singular penalties of the Middle Ages.

XII. *Adultery in the Past and in the Future.*

I. *Adultery in General.*

We will now pass in review some of the principa penalties (the enumeration of all of them would be toc long) with which the men of all times and races have attempted to repress adultery. That the human species and especially the primitive, unpolished human species, is one of the most ferocious of the animal kingdom, stands out strikingly from these investigations; but it is perhaps in regard to adultery that the cruelty and injustice of men are most strongly shown; and by the word "men" here we mean the masculine half of mankind, for generally the only adultery which has been punished has been that of the woman. As for the adultery of the husband, men have been very slow in admitting that it was a wrong of which the wife might complain.

The reason of this revolting partiality is very simple Diderot makes Orou tell it in his *Supplément au Voyage de Bougainville;* it is that "the tyranny of man has converted the possession of woman into a property."[1]

On the whole, our long inquiry has abundantly proved that very generally, in human societies, marriage has been, or is still, a bargain, when not a capture. In all legislations the married woman is more or less openly considered as the property of the husband, and is very often confounded, absolutely confounded, with things possessed. To use her, therefore, without the authority of her owner, is a theft; and human societies have never been tender to thieves. Nearly everywhere theft has been considered a crime much more grave than murder. But adultery is not a common theft. An object, an inert possession, are passive things; their owner may well punish the thief who has taken them, but him only. In adultery, the object of the larceny, the wife, is a sentient and thinking being—that is to say, an accomplice in the attempt on her husband's property in her own person; moreover, he generally has her in his keeping; he can chastise her freely, and glut his rage on her without any arm being raised for her defence. On the

[1] Diderot, *Supplément au Voyage de Bougainville, in Œuvres*, t. ii. p. 245.

contrary, in letting loose his vengeance the husband will frequently have public opinion and law on his side, when the latter does not take on itself the punishment of the guilty one. But let us listen once more to the eloquent language of facts.

II. *Adultery in Melanesia.*

In Tasmania and Australia the women were, or are, considered as the property of the men. We have seen that in these countries there is no care for decency or chastity, and that wives are often obtained by brutal rape. Their proprietors also make no scruple of letting them out, lending them, or bartering them; they have the fullest right to use or abuse them. The Tasmanians felt very honoured if a white man borrowed their wives, but they none the less chastised, and very cruelly too, unauthorised infidelities, on the simple ground, as their panegyrist, the Rev. Bonwick, tells us, of their right of ownership.[1] In certain Australian tribes, organised in classes, the women were reputed common to all the individuals of the same class, but all intimate relation with a man of another group was a most grave adultery for both the guilty ones—a social adultery.[2]

In the greater number of New Caledonian tribes the punishment of adultery is left to the care of the injured husband, who kills the thief, if he can, but often contents himself with giving a severe punishment to his wife, sometimes inflicting a sort of scalping. At Kanala, however, adultery has already become a social crime. The man who commits it is led before the chief, judged by the council of elders whom the chief presides over, and executed on the spot.[3] But in one way or another, whether he incurs the social vengeance or that of the offended one—the robbed one, rather—and of his relatives, the New Caledonian who commits adultery risks his life. Sometimes, however, he can get off by paying a fine, after the old German fashion. Often also, in case of adultery committed by a married man, the New Caledonians practise a singular

[1] Bonwick, *Daily Life*, etc., p. 72.
[2] Fison and Howitt, *Kamilaroi*, etc.
[3] De Rochas, *Nouvelle Calédonie*, p. 262.

retaliation: the adult men of the village simply violate the wife of the delinquent.[1] The wives of the chiefs being much more sacred than the others, the slightest attempt on the rights of their proprietors risks being cruelly punished. M. Moncelon has seen a man condemned to death merely for having looked at the wife of the chief while she was picking up shells;[2] it was regarded as treason. This ferocity in the repression of adultery is not at all special to Melanesia. With some variations, it is found in all times and in all countries. It is worthy of remark also that even when the adulterous man is punished, it is simply because he has robbed another husband, and not because he has failed in conjugal faith.

III. *Adultery in Black Africa.*

We have previously seen that among the black populations of Africa marriage is a simple bargain, and that the negresses are only moderately chaste. Now, as the purchase of wives and the absence of chastity in the women are factors eminently suited to produce adultery, we shall not be surprised to find that it is very common in Africa; it is nevertheless very severely punished there, but only because it is a very grave outrage on property. Among the Hottentots, the husband, having the right of life and death[3] over his wife or wives, and being allowed to kill them for the smallest offence, naturally enjoys the same right, with a much stronger reason, when they commit an unauthorised infidelity, for he can lend or let them to strangers if he likes.[4]

In the tribes where polygamy already inclines to monogamy, and where there exists a chief wife ruling over the others, the gravity of the crime of adultery is in relation to the position occupied by the woman. Thus, at the Gaboon, Du Chaillu tells us, where the women are extremely dissolute, a distinction is made in their infidelities. The adultery of

[1] L. Moncelon, *Réponse au Questionnaire de Sociologie*, in *Bull. Soc. d'anthrop.*, 1886. [2] L. Moncelon, *loc. cit.*
[3] Burchell, *Hist. Univ. des Voy.*, t. xxvi. p. 479.
[4] Alexander, *Expedition into the Interior of Africa*, vol. i. pp. 98, 173.

the chief wife is an enormous crime. The man who has been an accomplice in it is, at the very least, sold as a slave; but adultery with less important wives can be atoned for by a large compensation.[1] As for the woman, her pecuniary value often protects her. The husband-proprietor has bought his wife, and he cares very little for the purity of her morals, since he has no scruple in making her an object of traffic;[2] therefore, whenever she is unfaithful without his permission, the consideration of the cost of purchase and of the possible profit of letting her out, often restrains his vengeful arm. He is free, however, to punish or to pardon, and sometimes the chastisement of adultery is terrible. At Bornou, for example, the guilty ones are bound hand and foot, and their heads are smashed by being struck together.[3] At Kaarta, says Mungo Park, the two guilty ones are put to death. With the Soulimas there is a singular exception to this. The adulterous woman merely has her head shaved, and she loses a privilege which is probably of Berber origin—viz., that of quitting her husband at will, simply by refunding him the amount of purchase-money he has paid for her. All the vengeance of the husband falls on the lover, and he makes him his slave.[4] At Jouida, in Dahomey, the offended husband had still the right, in 1713, of invoking judicial power in order to have his guilty wife strangled or beheaded by the public executioner.[5] Her accomplice was not spared, and sometimes, says Bosman, he was burned at a slow fire. This cruel wish to make delinquents suffer a long time is found again in Uganda, where King M'tesa caused adulterers to be dismembered, having one limb at a time cut off and thrown to the vultures, who feasted on it before the eyes of the sufferers.[6] With the Ashantees, the husband, as sovereign justiciary, can either kill his wife, or marry her to a slave, or cut off her nose, according to his pleasure.[7]

[1] Du Chaillu, *Afrique équatoriale*, pp. 67, 435.
[2] Raffenel, *Nouv. Voy. aux pays des Nègres*, t. 1er. p. 402.
[3] Denham and Clapperton, *Hist. Univ. des Voy.*, t. xxvii. p. 437.
[4] *Id., ibid.* t. xxviii. p. 106.
[5] Démeunier, *Mœurs des Différents Peuples*, t. 1er. p. 223.
[6] Speke, *Voy. to the Sources of the Nile*, p. 343.
[7] Bowdich, *English Mission to the Ashantees.*

We find this last punishment specially applied to adultery in various countries, and Diodorus will tell us the motive for it. On the Senegal coast the all-powerful protection of money saved the life of adulterers, and the offended husbands spared them in order to sell them to European slave-traders.

In Abyssinia the conjugal bond is so frail, morals are so shameless, and divorce is so easy, that adultery is rarely taken in a tragic light. Formerly the injured husband often confined himself to chasing from his house the adulterous woman, clothed in rags for the occasion.[1]

IV. *Adultery in Polynesia.*

Polynesian customs alone would suffice to prove that in primitive countries adultery is simply punished as a robbery, or commercial fraud. As regards sexual morality, or rather immorality, nothing can be compared to what was practised in Polynesia, where all modesty was unknown, where the husbands willingly let out their wives, and the intimate friend of the husband (*tayo*) had the right to share his wife with him. But dissolute as they were, these islanders were very determined conjugal proprietors, and they sometimes punished adultery with the most extreme severity. The missionary, Marsden, relates that a New Zealand chief killed his adulterous wife by dealing her a blow on the head with his club. Public opinion approved of the deed, and the brother of the dead woman came to take the body, only making a feint of retaliation, because the punishment was considered to be merited.[2]

Cook saw at Tahiti a native man punished in the same way for adultery, by blows of the club; but in this case there was the aggravating circumstance that the woman belonged to a class superior to his.[3] In some islands, especially at Tahiti and Tonga, where the customs were less savage, and licence was more unbridled than in New

[1] Démeunier, *loc. cit.*, t. 1er. p. 218.
[2] *Journal of Marsden*, in *Voy. of the Astrolabe*, p. 360.
[3] Cook, *Hist. Univ. des Voy.*, t. x. p. 31.

Zealand, the women sometimes got off with a simple correction. We must again remark that what was blamed and punished was not the adultery itself, but adultery unauthorised, or not commanded by the legal owner—in short, theft.

At Noukahiva, says Krusenstern, there was a functionary called the "fire-lighter" who lived with the wife of a king. The duty of this dignitary was, in the first place, to obey the queen, and in the next to supply her husband's place with her in case of prolonged absence on his part.[1] Taking this fact by the side of others, as, for example, the unlimited right of the friend, or *tayo*, over the wife, we see clearly what the Polynesians understood by adultery.

V. *Adultery in Savage America.*

The Esquimaux, who are as free from prejudices in their conjugal customs as the Polynesians, have also, at least certain of them, adopted the custom of joint husbands, *cicisbei*, who replace the husband in case of absence.[2] There are some, however, who blame the adultery of wives, and believe even that the fairies would kill them if their wives were unfaithful during their absence.[3] But all the Esquimaux are not equally easy going; some of them, the reindeer Koriaks, for example, kill at once the man and woman taken in adultery.[4]

The Redskins are always less tolerant; with them adultery is a very serious affair, although they often also consider the exchange of wives a mark of friendship. It is generally the husband who takes vengeance as he pleases, and he often does so by cutting open with his teeth the nose, and sometimes the ears, of the guilty woman. This was the practice with the Comanches,[5] the Yumas,[6] and the Sioux.[7] But the injured, or robbed, husband is at liberty to make a

[1] Cook, *Hist. Univ. des Voy.*, t. xvii. p. 12.
[2] Bancroft, *Native Races*, etc., vol. i. p. 81.
[3] Élie Reclus, *Les Primitifs*. [4] Démeunier, *loç. cit.*, t. 1er. p. 216.
[5] Domenech, *Voy. pittoresque*, etc., p. 533.
[6] Bancroft, *Native Races*, etc., vol. i. p. 514.
[7] Démeunier, *loc. cit.*, t. 1er. p. 219.

composition with the seducer.[1] He can at will either pardon —as did a Mandan husband who sent the wife to her lover, adding three horses to the present[2]—or he can put to death the faithless wife and her accomplice. By a rare exception, the Omahas recognised the right of the wife to revenge herself on an adulterous husband and his mistress.[3] With the Omahas, also, an adulterous wife was bound to a stake in the prairie, abused by twenty or thirty men, and then abandoned by her husband.[4] We have seen that this obscene mode of retaliation is in use at New Caledonia, and we shall find it again in the Roman Empire. The mode of vengeance with the Redskins, whether of the husband or the tribe, varied according to locality, but was often atrocious. Thus the Modocs of California publicly disembowelled the guilty woman.[5] Among the Hoopsas, another tribe of Californian Redskins, the male accomplice in the adultery lost one eye,[6] or, if he was married, the injured man took his wife.

The natives of South America were not more clement than their congeners in the north. The Caribees put both guilty ones to death.[7] The Guarayos also punished with death the accomplice in adultery as if he were a thief.[8]

From this rapid survey of savage countries we may conclude that adultery is everywhere considered as a robbery only, but at the same time as one of the gravest of robberies. The man who is guilty of adultery suffers consequently, by virtue of the right of retaliation, a punishment more or less severe. As for the adulterous woman, she is generally chastised by the husband-proprietor with extreme cruelty, no restraint existing to moderate his vengeance.

VI. *Adultery in Barbarous America.*

In the barbarous monarchies of all countries the chastisement of adultery is scarcely mitigated, and for a long time

[1] J. O. Dorsey, *Omaha Sociology*, p. 364, Smithsonian Institution, 1885.
[2] Wake, vol. i. p. 428. [3] J. O. Dorsey, *loc. cit.* [4] *Id.*, *ibid.*
[5] Bancroft, *Native Races*, etc., vol. i. p. 350. [6] *Id.*, *ibid.* p. 412.
[7] *Voyage à la Terre-ferme*, etc., t. 1er. p. 304.
[8] D'Orbigny, *L'homme Américain*, t. ii. p. 329.

it is directly inflicted on the guilty woman by the husband or the parents.

With the Pipiles of Salvador the man who committed adultery was put to death, or became the slave of the offended husband.[1] In Yucatan the guilty ones were stoned or pierced with arrows; before this they were impaled or disjointed.[2] According to Herrara, among the Yzipecs the injured husband cut off the nose and ears of the adulterous woman.[3] The same author tells us that among the Guaxlotillans the woman was taken before the Cacique, and if found guilty she was cut in pieces and eaten.[4]

In ancient Mexico adultery was generally punished with stoning,[5] and in certain districts this crime entailed the quartering of the guilty woman; elsewhere, the judges simply ordered the husband to cut off her nose and ears.[6]

In Peru the law also punished ordinary adultery with capital punishment.[7] There was no chastisement terrible enough for adultery committed with one of the wives of the Inca, the son of the Sun: the guilty man was burnt, his parents were put to death, and his house destroyed (Pizarro).

Guatemala offered an exception;[8] there the affair was arranged by a composition—a fine of precious feathers paid to the husband. The latter could also repudiate his wife, or pardon her, in which last case he was much honoured. If the adultery was committed with the wife of a great lord, the crime naturally acquired an exceptional gravity; the guilty man was then strangled if he was noble, and if servile, was thrown down a precipice. We shall find elsewhere this hierarchic iniquity, for in this matter, as in others, various human societies and races repeat themselves.

[1] Bancroft, *Native Races*, vol. ii. p. 675. [2] *Id.*, *ibid.* vol. ii. p. 674.
[3] Démeunier, *loc. cit.*, t. 1er. p. 224. [4] *Id.*, *ibid.* t. 1er. p. 225.
[5] Prescott, *Hist. Conq. of Mexico*, vol. i. p. 26.
[6] L. Biart, *Les Aztèques*, p. 168.
[7] Prescott, *Hist. Conq. of Peru*, vol. i. p. 59.
[8] Bancroft, *Native Races of the Pacific States*, vol. ii. p. 673.

VII. *Adultery among the Mongol Races and in Malaya.*

Thus the Mongols of Asia seem to have copied the Mongoloids of America. With the nomad Tartars a man of inferior class who has committed adultery with a woman of his own class pays the injured husband forty-five head of cattle; but the husband must revenge himself on the inconstant wife. The law invites him to do so; for if he kills her, the compensation of cattle remains his property; if not, it goes to the prince. But if it happens that a man of low condition has illicit intercourse with the wife of a prince, then the crime is terrible; the man is cut to pieces, the faithless wife is decapitated, and the family of the guilty man reduced to slavery.[1] If we may believe a modern traveller, Mongol customs have become considerably modified on this point, adultery being now extremely common in Mongolia, and so little repressed that the women hardly take the trouble to conceal it.[2]

In lamaic Thibet they do not regard adultery as a tragedy. The wife is corrected, and the lover pays a fine to the husband, or husbands, when there are several.[3]

Chinese legislation is relatively moderate in regard to adultery. In the first place it expressly forbids the husband to lend or let out his wife, under pain of twenty-four strokes with the bamboo.[4] The Chinese woman can certainly be imprisoned for adultery,[5] but she is chiefly punished by repudiation, which is obligatory on the husband on pain of twenty strokes of the bamboo.[6] She can, however, be sold either by the husband or by the judge to whom the offended husband remits her.[7] In contrast to certain barbarous legislations, the Chinese law is more severe in regard to adultery for the strong than for the weak. "Whoever, on the strength of his power or credit, shall

[1] Timkowski, *Hist. Univ. des Voy.*, t. xxxiii. p. 341.
[2] Préjévalsky, *Mongolia*, t. 1er. p. 69.
[3] Turner, *Hist. Univ. des Voy.*, t. xxxi. p. 437.
[4] Pauthier, *Chine moderne*, p. 238.
[5] Davis, *China*, vol. i. p. 322, etc.
[6] Pauthier, *Chine moderne*, p. 239.
[7] Sinibaldo de Mas, *Chine et puissances chrétiennes*, t. 1er. p. 52.

take away the wife or the daughter of a free man to make her his own wife, shall be imprisoned for the usual time and put to death by strangulation."[1]

In Japan the law gives the offended husband the cruel and very general right to kill the guilty ones if taken in adultery, and forbids him to spare one.[2] We find this latter injunction, perhaps more humane than it appears, in ancient Roman legislation and elsewhere.

Nothing is at once more monotonous and more ghastly than this ethnographic review of the penalties against adultery.

Simple death has not sufficed to punish this crime, so enormous has it everywhere seemed; and thus other refinements of cruelty have been added—disembowelling, cutting in pieces, the stake, etc.

So far, among the races we have been investigating, Chinese legislation has been the wisest and most just, since, contrary to usual custom, it enacts the most severe penalties against the powerful man who takes advantage of his social position to commit adultery. Here and there, however, we find societies where adultery excites less fury. These societies are rare, and they are not always the most civilised.

At Java, for example, adultery is treated with clemency, especially if it is not committed with the chief wife. Even in this last case the guilty one, at least the man, is often only punished by public contempt.[3] The Dyaks punish conjugal infidelity with a fine only, for both parties.[4] This is a rare example of clemency, and it is given by a still barbarous race. We look in vain for such moderation among much more civilised peoples, as we shall see in studying ancient Egypt and the Berbers and Semites.

[1] Pauthier, *loc. cit.* p. 239.
[2] Masana Maéda, *La Société japonaise*, in *Revue Scientifique*, 1878.
[3] Waitz, *Anthropology*, vol. i. p. 315.
[4] *Journal of James Brook, Rajah of Sarawak*, by Capt. Munday, vol. ii. p. 2.

VIII. *Adultery among the Egyptians, the Berbers, and the Semites.*

Diodorus tells us that in ancient Egypt the man who was guilty of adultery received a thousand lashes, whilst the woman suffered the amputation of her nose, a very special penalty, which we have seen used in America and negro Africa, which we shall find also among the Saxons of England, and for which Diodorus has given us the reason. "The legislator," he says, "has intended to deprive the woman of attractions which she had only made use of for seduction."[1]

The Bible, also, is not tender towards adulterers. But it makes no distinction between the culpability of the man and the woman; stoning is for both. This terrible punishment is not only inflicted on the faithless wife, but on the inconstant *fiancée*. The accomplices even are put to death. There are, however, some distinctions, and precautions are taken to mitigate the rigour of the law; thus the guilty woman is only condemned to be stoned if the crime has been committed in the city. If in the fields, the man alone incurs stoning;[2] it is thus admitted that the woman may have suffered violence. Besides this, two witnesses are in all cases necessary to establish the crime. Lastly, the slave woman is not punished with death.[3]

The ancient Arabs were not more clement towards adultery than their cousins of Palestine, and the Bedouins, who have preserved more of the old customs, still consider adultery as the greatest of crimes. Burckhardt tells us that with them the adulterous woman is beheaded either by her father or her brother.[4] These are morals that go far beyond the prescriptions of the Koran. It would seem that Mahomet, much given to sexual pleasures himself, had not the courage to be too severe on others. He, indeed, calls the adultery of woman the "infamous action" *par excellence*, but he directs, nevertheless, that the crime be proved by four witnesses.[5] Moreover, the woman can

[1] Diodorus, i. p. 78.
[2] Deuteronomy, xxii.
[3] Leviticus, xix. 20-22.
[4] Burckhardt, *Notes*, etc., t. ii. p. 84.
[5] Sourate, iv. 8.

escape the punishment by swearing four times before God that she is innocent, and that her husband has lied.[1] If she is convicted, both she and her accomplice receive a hundred lashes in public. Then the woman must be shut up "until death visits her, or God finds her a means of salvation,"[2] all of which is relatively mild enough.

Although Mussulmans, the Kabyles of Algeria do not keep to the somewhat humane prescriptions of the Koran in regard to adultery. In general, they are pitiless towards all infractions of morals. With them a kiss on the mouth is equivalent to adultery, and costs more than an assassination.[3] Every child born out of marriage is put to death, as well as its mother.[4] If the family tries to spare the guilty one, the Djemâa stones her and imposes a fine on the relatives.[5] The child and mother are stoned by the Djemâa or the family. Even when a woman is actually separated from her husband her adulterous child is killed, but the fate of the mother is left to the discretion of the relatives.[6]

Whoever carries off a woman, especially a married woman, and flees with her, becomes a public enemy, and the village where the fugitives have taken refuge must give them up under pain of war. The man is put to death, and the woman is restored to her family, who do not spare her.[7]

Custom authorises the deceived husband to sacrifice his wife, and if he rarely does it he is only hindered by the loss of the capital she represents; but usage requires the repudiation,[8] and the husband must, besides, take a striking and bloody vengeance on the lover.[9] At the very least he must simulate it, must fire, perhaps, on the guilty one with a gun loaded only with powder, and strike or slightly wound his wife's lover. He has thus saved his honour; he is content with little, as in our rose-water duels. With the Kabyles, more than elsewhere, marriage is a mercenary

[1] Koran, Sourate, xxiv. 8.
[2] *Id.*, *ibid.* iv. 19.
[3] Hanoteau et Letourneux, *Kabylie*, t. iii. p. 209.
[4] *Id.*, *ibid.* t. ii. p. 186.
[5] *Id.*, *ibid.* t. iii. p. 208.
[6] *Id.*, *ibid.* t. ii. p. 187.
[7] *Id.*, *ibid.* t. iii. pp. 212, 213.
[8] *Id.*, *ibid.* p. 74.
[9] *Id.*, *ibid.* p. 187.
[10] *Id.*, *ibid.* t. iii. p. 74.

affair; consequently adultery naturally has pecuniary consequences. Thus, in compensation for adultery or the abduction of his wife, the husband has a right to the amount of the purchase, the *thâmanth*, or to an indemnity, sometimes arbitrary, sometimes tariffed;[1] but this compensation in money is distinct from the retaliation, and in no way hinders it.[2]

Lastly, the Kabyle legislation formally interdicts the marriage of the adulterous woman with her accomplice.[3]

Beginning with Melanesia and reaching Kabyle, I have sought among very different races, forming altogether the major part of mankind, the penalties used or decreed against adulterers. The result is a lamentable enumeration of sanguinary follies. I have passed by in silence the legendary or exceptional sufferings. I have not spoken of women crushed under the feet of elephants, violated by stallions, buried alive, etc. The common reality alone more than suffices to show that man, still far from being very delicate in conjugal or amorous matters, considers adultery as a great crime, especially for woman. It remains for us to see how the races calling themselves *par excellence* noble—the Indo-European races—have regarded this fault, so difficult to pardon.

IX. *Adultery in Persia and India.*

The Avesta does not mention adultery in ancient Persia. In modern Persia it has been punished with ferocity, except, naturally, when it was committed by the Shah, who chose, according to his fancy, any young girls or women among his subjects, without any one daring to find fault with him.[4] But for private individuals adultery was an abominable crime; the man who had committed it was put to death; the woman, treated of course more severely, was tied up alive in a sack and thrown into the water.

The Code of Manu gives us very complete information

[1] Hanoteau et Letourneux, *Kabylie*, t. ii. p. 159.
[2] *Id.*, *ibid.* t. ii. p. 165.
[3] Chardin, *Hist. Univ. des Voy.*, t. xxxi. p. 251.
[4] G. Drouville, *Voyage en Perse*, t. 1er. p. 251.

in regard to the penalty for adultery in ancient India. In the first place, it is understood that the adultery of the husband ought not to trouble the wife at all. "Although the conduct of her husband may be blameworthy, and he may give himself up to other amours and be devoid of good qualities, a virtuous woman ought constantly to revere him as a god."[1] The adultery of the woman is naturally quite another thing. "If a woman, proud of her family and her importance, is unfaithful to her husband, the king shall have her devoured by dogs in a very frequented public place."[2] If a woman of high rank, the lover also is not spared. "The king shall condemn her accomplice to be burned on a bed of red hot iron."[3] For the less aristocratic adultery the punishment varies according to the caste. "For adultery with a protected Brahmanee, a Vaisya loses all his property, after imprisonment for a year; a Kchatriya is condemned to pay a thousand panas, to have his head shaved and watered with urine of an ass." For the Brahmin the penalty is very light. "An ignominious tonsure is ordered instead of capital punishment for a Brahmin in the cases where the punishment of the other classes would be death."[4] The Soudra, on the contrary, who holds criminal commerce with a woman belonging to one of the three first classes, "shall be deprived of the guilty member, and of all his possessions, if she was not guarded; but if it was so, he loses both his goods and his existence."[5] It must be noticed, also, that very slight evidence suffices to prove adultery. "To pay little attentions to a woman, to send her flowers and perfumes, to frolic with her, to touch her ornaments or vestments, to sit with her on the same couch, are considered by wise men as proofs of an adulterous love."[6]

On the other hand, the husband, if he has had no children, can oblige his wife to give herself either to his brother or to another relative. "Anointed with liquid butter and keeping silence, let the relative charged with this office approach during the night a widow or a childless woman, and engender one single son, but never a second."

[1] *Code of Manu*, v. 154.
[2] *Ibid.* book viii. 371.
[3] *Ibid.* p. 375.
[4] *Ibid.* viii. 379.
[5] *Ibid.* viii. 374.
[6] *Ibid.* viii. 357.

Then, in the following verse, the Code alters: "Some of those who understand this question well, think that the aim of this precept is not perfectly attained by the birth of a single child, and that women may legally engender in this manner a second son."[1] One verse, certainly less ancient, contradicts these curious texts, which are evidently survivals of primitive customs, according to which the husband disposed as he pleased of his feminine property. More modern Brahmanic legislation still authorises the husband to kill the wife and her lover if taken in adultery, and there would be nothing new to us in this, if, as in Japan, and as formerly at Rome, the law did not formally interdict him from killing only one of the two culprits.[2]

X. *Adultery in the Greco-Roman World.*

However Aryan India may be, she differs very remarkably from us. Let us look now at the way in which adultery has been regarded in Europe, and, to begin with, in the Greco-Roman world. We know that in classic antiquity marriage was quite crudely considered as a civic duty, and looked at from the single point of view of population. Lycurgus and Solon encouraged the impotent husband to favour the adultery of his young wife. Speaking of the laws of Lycurgus, Plutarch says—"He laughed at those who revenge with war and bloodshed the communication of a married woman's favours; and allowed that, if any one in years should have a young wife, he might introduce to her some handsome and worthy young man, whom he most approved, and when she had borne a child of this generous race, bring it up as his own. Also he permitted that if a man of character should entertain a passion for a married woman upon account of her modesty and the beauty of her children, he might beg her husband that he might be allowed to plant, as it were, in rich and fertile soil, excellent children, the congenial offspring of excellent parents."[3] This is marriage considered with-

[1] *Code of Manu*, ix. 60, 61.
[2] *Lettres édifiantes*, t. xiv. p. 378.
[3] Plutarch, *Lycurgus*, xxix.

out the least prejudice, from the strict point of view of social utility. Solon imitates Lycurgus on this point, but with one restriction which recalls the Code of Manu, that the wife of an impotent husband should, with his permission of course, choose a lover from among the nearest relatives of the said husband.[1]

Custom sometimes went further than the laws, and Plutarch relates that Cimon of Athens, who was a model of goodness and greatness of soul, lent his wife to the rich Callias.[2] But that did not prevent the laws of Solon from authorising the husband to kill the adulterer.[3] Further, the law punished with civil degradation the too indulgent husband, and authorised the family tribunals to condemn to death the guilty woman, whom the husband himself executed before witnesses.[4] Lastly, a law of Draco, which was never abrogated, delivered the adulterous lover to the discretion of the husband.[5] After all, save for the good of the state, before which everything had to bend, this Greek legislation only consecrates the old primitive right by which the wife was the property of her husband.

In all that concerns marriage ancient Rome singularly resembles ancient Greece.[6] Her customs and regulations regarding the wife were at first of a savage atrocity. The term adulterer begins by being applied to the woman alone, and the law of the Ten Tables arraigned the guilty wife before the domestic tribunal; she was condemned and executed by the relatives themselves—*Cognati necanto uti volent.* Family tribunals continued to exist during the whole period of the republic, and even later, concurrently with the law *Julia;* but customs softened, and death was commuted to banishment to two hundred miles from Rome at the least, with the obligation of wearing the toga of the courtesan. The *flagrante delicto* naturally authorised the husband to kill the wife on the spot;[7] as for the lover, he could keep him, torture him, mutilate him, *raffanise* him

[1] Plutarch, *Solon*, xxxvi.
[2] *Id.*, *Life of Cimon.*
[3] *Id.*, *Solon*, xliv.
[4] Legouvé, *Hist. Morale des Femmes*, p. 182.
[5] Ménard, *Morale avant les Philosophes*, p. 303.
[6] Lecky, *Hist. of European Morals*, vol. i. p. 312.
[7] Wake, *Evolution of Morality*, vol. ii. p. 85.

(I dare not give the sense of this picturesque word), and deliver him to the ferocious lubricity of his slaves. Law and public opinion authorised the husband to fleece the surprised lover, and thus torture could be made a means of extorting money from him.

The *Lex Julia*, enacted either by Julius Cæsar or Augustus, attempted a reform of morals. By the terms of this law, which was in force till the time of Justinian, the husband could not kill his wife, taken in adultery, without being punished as a murderer. Neither could he put the lover to death unless he were a slave, a go-between (*leno*), a comedian, or a freed man of the husband or of the family. But the husband could hold him prisoner twenty hours in order to procure witnesses. The father had more extensive rights than the husband; he was authorised, in case of *flagrante delicto*, to kill his daughter and her lover, but he was to kill them both, and immediately. However, to enable him to act thus as justiciary, he must have the *potestas* still, and the crime must have been committed in his house, or in that of his son-in-law. The *Lex Julia* punishes the adulterous man by the confiscation of the half of his goods; it decrees the same punishment for the woman, and, besides, forbids her to marry after the repudiation, which was obligatory for the husband. The latter was obliged even to drive away his wife at once for fear of being called a go-between. This same *Lex Julia* made adultery a public crime which every citizen could bring before the tribunals, and it punished with the sword the adulterous man.[1] By degrees, and towards the Christian epoch, the legislation relative to adultery was amended.

In his quality of philosopher the Emperor Antoninus was more clement and just than his predecessors; by one law he interdicted the husband, who might himself be presumably guilty of adultery, to kill or sue his wife surprised in *flagrante delicto*. By degrees the customs became in time so free and so tolerant that, Septimus Severus having enacted new laws against adultery, the consul, Dion Cassius, found at Rome three thousand plaints on the register for this cause.[2] Theodosius, says an ecclesiastical writer, mitigated

[1] *Institutes*, iv., tit. 18.

[2] Friedländer, *Mœurs Romaines*, etc., t. 1er. p. 367.

the penalties against adultery; he abolished an ancient Roman custom, inspired by the idea of retaliation, according to which the guilty woman, shut up in a little hut, was given to the passers-by, who even were to be furnished with little bells to attract attention.[1] The same ignoble penalty was, we have seen, in use among several of the Redskin tribes, and this fact proves, with many others, the original equality of the most diverse races in primitive savagery. Yielding to the ardour of a new convert, Constantine legislated with fury against all moral outrages, and decreed, without wincing, the punishment of death against adulterers of both sexes.

Justinian reformed and moderated legal severities. His code condemns the adulteress to be whipped, to have her hair shaved, and to be shut in a convent for life, if her husband does not take her back before the end of two years. In comparison with the excess of zeal shown by Constantine, this is nearly merciful. We have already said enough of the relaxation of manners under the wiser Pagan emperors. A marriage which was almost free procured for young women of the aristocracy an independence without much restraint; and in practice, at least, and in spite of the laws, adultery had ceased to be the abominable crime which it had begun by being.[2]

XI. *Adultery in Barbarous Europe.*

Our ancestors of barbarous Europe have had, as regards adultery, customs quite as ferocious as those of the savages of any other race. These same customs were still found recently among the Tcherkesses of the Caucasus, where the injured husband shaved the hair of the guilty woman, split her ears, and sent her back to her parents, who sold her or put her to death.[3] The lover was generally killed by the husband or his relatives. With the Lesghis, the husband who had not killed his adulterous wife in *flagrante delicto* could have her judged by the council of the tribe, and

[1] Socrates, *Hist. Eccles.*, lib. v., cap. xviii.
[2] Friedländer, etc., *Mœurs*, t. 1er. p. 367.
[3] Klaproth and Gamba, *Hist. Univ. des Voy.*, t. xlv. p. 435.

she was then condemned and stoned after the Hebrew fashion.[1]

In the Germanic and Scandinavian countries adultery has primitively been considered as an enormous crime. Thus the ancient Danes punished adultery with death, whilst murder was only fined. The old Saxons began by burning alive the adulteress, and on the extinct fire they hung or strangled her accomplice. In England King Edmund assimilated adultery to murder. King Canute ordered that the man should be banished, and the woman should have her nose and ears slit.

Tacitus tells us that with the Germans the adulteress was made to walk naked through the villages. Prior to the ordinances of Canute this old German custom was still preserved in England. Her head shaved, and her body bare to the waist, the woman was dragged out of her husband's house in the presence of her relations, and then whipped to death through the streets. Her lover was hung on a tree.

According to the laws of the Visigoths, and in virtue of the law of retaliation, the adulteress was given into the hands of the wife of her lover, if the latter was married. And if the lover had no children, his goods were confiscated to the profit of the injured husband (lib. iii.).

The penalties ended by becoming entirely pecuniary, especially for the man. The fifth section of the Salic law, and the thirty-fifth section of the Ripuarian law, both inflict a fine of two hundred pence on whoever abducts a married woman. A law of Charlemagne orders the ravisher to restore the wife and all that she has carried off. If the husband does not exact a composition, the sheriff takes up the matter, banishes the guilty man, and condemns him to pay a fine of sixty pence. In the Middle Ages the adulteress was generally shut up for life in a convent, and lost her dowry. Whipping was sometimes added to these punishments, as is proved by an ordinance made in 1561.[2]

The laws of King John (1362), of Charles le Bel (1325), of Louis XI. (1463), show that certain towns preserved the old custom of making the adulteress run naked through the

[1] Klaproth and Gamba, *Hist. Univ. des Voy.*, t. xlv. p. 448.
[2] Desmaze, *Curiosités*, etc.

city. Lastly, until 1789, legislation, although moderating its severity, remains undecided, varies according to place, circumstance, and even social position; but the atrocious and coarse penalties of ancient times are abolished and forgotten.

XII. *Adultery in the Past and in the Future.*

Like all our ethnographical studies, this also affirms the law of progress. We have seen savagery pass into barbarism, and barbarism into civilisation. We have seen adultery punished at first as a robbery—but a most execrable robbery—and the chastisement falling chiefly on the woman as being a property in revolt. For her alone fidelity is obligatory. As to the adulterous husband, he is punished, if at all, on the ground of having abused the property of another, and not in the least because he has been unfaithful to his own wife. By slow degrees, however, equity asserts certain rights, and at the same time customs are humanised; marriage becomes less and less a "contract of slavery" for the woman; and, in spite of the recoil caused by catholicism, progress resumes its course, and we begin to foresee the time when, marriage being instituted on rational and just foundations, adultery will disappear, or nearly so, from our customs and our laws.

But surely that time is far distant. Our conscience is still so impregnated with the morality of past ages that our public opinion and our juries willingly pardon a man who murders his adulterous wife, while they are full of mercy for the conjugal infidelities of this ferocious justiciary. The antique morals which hold woman as a servile property belonging to her husband still live in many minds. They will be extinguished by degrees. The matrimonial contract will end by being the same kind of contract as any other, freely accepted, freely maintained, freely dissolved; but where constraint has disappeared deception becomes an unworthy offence. Such will be the opinion of a future humanity, more elevated morally than ours. Doubtless it will have no longer any tender indulgence for conveniently dissimulated adultery, but, on the other hand, it will no longer excuse the avenging husband.

CHAPTER XIV.

REPUDIATION AND DIVORCE.

I. *In Savage Countries.*—The right of repudiation in New Caledonia, among the Hottentots, the Bongos, the Soulimas, the Fantis, the Ashantees—Divorce in Polynesia—The right of repudiation in America.

II. *Divorce and Repudiation among Barbarous Peoples.*—In Abyssinia, at Haïti—The *nefir* of the Djebel-Taggale—Repudiation among the Bedouins and the Touaregs—Repudiation among the Kabyles—The "prevented" Kabyle woman—The "insurgent" Kabyle woman—Repudiation among the Arabs—Divorce among the Arabs—Obligatory divorce—Repudiation on account of non-virginity—Divorce by mutual consent in Peru and Thibet—Repudiation among the Mongols—Repudiation in China—Obligatory divorce in China—Repudiation in ancient India—Repudiation among the Hebrews—Repudiation in Greece—Evolution of repudiation and divorce in ancient Rome—Divorce and Christianity—Repudiation in barbarous Europe, in France, in the Middle Ages.

III. *The Evolution of Divorce.*

I. *In Savage Countries.*

I have no longer to demonstrate that woman has been treated with extreme brutality among nearly all primitive peoples. In the lowest stage of savagery—as, for example, in Australia and Tasmania—woman, being exactly assimilated to a domestic animal, who can be beaten, wounded, killed, and even eaten, her association with man does not merit the name of marriage, and consequently there is no question among these races of divorce, nor even of repudiation. The man, being able, as master, to dispose of the life of his wife, has, in addition, the right to send her away, or abandon her, if he chooses.

In New Caledonia, where the stage of the most brutal savagery is past, where the wife is no longer carried off as in Australia, but bought from her legal owners, the dissolution of the conjugal union is still ill-regulated. The man can chase away or repudiate his wife. The couple can also part by mutual agreement, the children following sometimes the mother and sometimes the father; nothing is uniform.[1] But the purchase of the woman protects her already somewhat against murder. As she represents a capital, the husband often hesitates to kill her, or even to drive her away.

The Hottentots of the Damara tribe have on this point similar customs to the New Caledonians. They do not hesitate to send away the wives of whom they are tired, and whom they can replace.[2] In Caffraria the husbands have also every right, without exception, over the wives they have bought.[3] In middle Africa, which is much more civilised, divorce and repudiation are rather less simple, and often give place to restitutions or indemnities.

With the Bongos, in case of divorce, the father must give back a part of the utensils or fire-arms for which he had ceded his daughter. He is even forced to a total restitution, if the husband keeps the children while repudiating the wife. In the last case there is evidently an idea of indemnifying the husband for the charge he undertakes, and this view of the matter is not uncommon in Africa.[4] Among the Bongos marriage is considered as a simple commercial transaction; and it is the same in the whole of Central Africa, especially among the Soulimas, where the women have the power of leaving their husbands to unite themselves to another man, on the sole condition of returning to their husband-proprietor the sum that he has paid to purchase them from their parents. However, this rare and singular liberty is taken from them if they commit adultery. But even in this last case they are treated with relative mildness.[5] As we have previously seen, the same custom is observed among the

[1] Moncelon, *Réponses au Questionnaire de Sociologie*, in *Bull. de la Soc. d'anthrop.*, 1886.
[2] Campbell, *Hist. Univ. des Voy.*, t. xxix. p. 343.
[3] Burchell, *ibid.* t. xxvi. p. 479.
[4] Schweinfurth, *The Heart of Africa*, vol. ii. p. 27.
[5] Laing, *Hist. Univ. des Voy.*, t. xxviii. p. 107.

Fantis of the Gold Coast, where the woman who quits her husband without a serious reason, taking her children with her, need only pay him a fixed indemnity—four ackies (twenty-two shillings and sixpence) for each child.[1] In the same way the Ashantees consider children a value worth keeping; thus their women can re-marry after a three years' absence of their husband; and in case of the traveller's return, it is the second marriage which holds good, only all the children that are his become the property of the first husband.[2] In fact, that equals an indemnity, since in Africa children are generally considered as a commercial value.

In Polynesia the conjugal bond could be untied, as it was tied, with the greatest ease. In the Marquesas Isles the husband and wife parted of mutual accord, in case of incompatibility of temper, and all was over; but if without his authorisation the wife deserted the conjugal hut to follow a lover, the husband watched for her and administered furious and repeated corrections.[3] At Hawaï the marriage was also dissolved at will, if the husband and wife were agreed on this point.[4] At Tahiti the unions were of the frailest; the husband and wife parted without ceremony, and the children were no obstacle, for by a previous agreement they were made over to one or other of the partners.[5] It was the same in the Caroline Isles, where, though the race was different, the customs were analogous, and married couples could divorce themselves at will.[6]

This fragility of marriages is common in savage countries. The man always has the right of repudiation, and very often the reciprocal right exists also. This fact seems even less rare among savages than it is later, at the middle period of the development of civilisation, when the patriarchal family is solidly established.

In North America, meaning, of course, savage America, the classic land of the matriarchate, man nevertheless enjoys nearly always the right of repudiation, often without limits;

[1] Brodie Cruikshank, *The Gold Coast.*
[2] Bowdich, *Hist. Univ. des Voy.*, t. xxviii. p. 425.
[3] M. Radiguet, *Derniers Sauvages*, p. 179.
[4] *Revue de l'Orient*, 1844.
[5] Moerenhout, *Voy. aux îles*, etc., t. ii. p. 62.
[6] Freycinet, *Hist. Univ. des Voy.*, t. xviii. p. 82.

but certain tribes either admit divorce by mutual consent, or limit the right of repudiation, or recognise certain rights of the wife. The Malemoute Esquimaux drive away their wives at will,[1] as do also the Kamtschatdales, their congeners of Asia;[2] but, with the Esquimaux, hardly any but a free and capricious union is known; there is as yet no durable marriage. It is nearly the same in a certain number of American tribes, where divorce is easy at the will of the two parties. Among the Dakota Santals the wife who is ill treated by her companion has the right to retire; but she cannot take the children without the husband's consent.[3] The marriage of the Iroquois, and of some other neighbouring tribes, was also broken by mutual consent. These Redskins lived in great common houses, each one inhabited by a fraction of the tribe, a *gens*, and consequently, that one of the divorced couple whose relations dominated in the *gens*, remained there; the other was forced to depart.[4] The Redskins of California also practised this easy and mutual divorce.[5] The Navajos still recognised the right of the wife to leave her husband, but already the masculine point of honour entered into play, and the deserted husband was obliged, under pain of ridicule, to revenge himself by killing some one.[6] At Guatemala the wife and husband could part at will and on the slightest pretext.[7] The Moxos of South America only regarded marriage as an agreement that could be dissolved by the will of the two parties.[8] But in many other Redskin tribes the right of divorce seems far from being reciprocal; it is replaced, to the detriment of the wife, by repudiation, which the husband can pronounce with a word. According to the Abbé Domenech, it is the fear of this terrible word which maintains an appearance of harmony among the many women in the interior of the Indian wigwams.[9] With the Chippeways a man takes or buys a girl of twelve, and

[1] Bancroft, *loc. cit.*, vol. i. p. 81.
[2] Beniouski, *Hist. Univ. des Voy.*, t. xxxi. p. 410.
[3] J. O. Dorsey, *Omaha Sociology*, Smithsonian Institution, 1885.
[4] L. Morgan, *Ancient Societies.*
[5] Bancroft, *loc. cit.*, vol. i. p. 412.
[6] *Id.*, *ibid.* p. 512.
[7] *Id.*, *ibid.* vol. ii. p. 672.
[8] A. d'Orbigny, *L'homme Américain*, t. ii. p. 211.
[9] *Id.*, *Voy. pittor.*, etc., p. 511.

sends her back when he is tired of her.[1] The Chinook husband can also repudiate his wife according to his caprice.[2] In a tribe of the Nahuas, the husbands enjoyed the same rights, but on condition of exercising them on the day after the marriage; the experimental union preceded the durable one.[3] In New Mexico, the husband repudiated at will, on condition only of restoring his wife's possessions.[4] A single word of the Caribean husbands also sufficed to dismiss the wife.[5] The same rule is found with the Abipones also, where the husband can repudiate his wife on the slightest pretext.[6]

The conclusion to be drawn from all these facts is, that there are no more fixed rules for divorce than for marriage in savage societies. But, as the wife is more often bought or captured, it is quite natural that her owner should send her away at his pleasure. Wherever divorce is mutual, it is when the wife costs little to obtain, or where the ties of relationship are well defined between the members of her and her tribe, or her *gens*, who then think themselves bound to afford her a certain protection.

II. *Divorce and Repudiation among Barbarous Peoples.*

These free and fragile marriages are found in societies more civilised than those of the Polynesians and the American Indians. Bruce tells us that in Abyssinia marriage is in reality only a free union, without any sanction or ceremony; couples unite, part, and re-unite as many times as they like. There are neither legitimate nor illegitimate children. In case of divorce the children are divided; the girls belong to the father, and the boys to the mother.[7]

M. d'Abbadie affirms also that Abyssinian marriage is purely civil and always dissoluble; he adds that it is dotal, and co-exists, for rich men, with the concubinate.[8] It is

[1] Bancroft, *loc. cit.*, vol. i. p. 117.
[2] *Id.*, *ibid.* vol. i. p. 241.
[3] *Id.*, *ibid.* vol. ii. p. 261.
[4] *Id.*, *ibid.* vol. i. p. 511.
[5] *Voy. à la Terre-ferme*, etc., t. 1er. p. 304.
[6] Dobritzhoffer, *An Account of the Abipones of Paraguay*, vol. ii. p. 97.
[7] Bruce, *Hist. Univ. des Voy.*, t. xxiii. p. 365.
[8] D'Abbadie, *Douze ans dans la haute Ethiopie*, pp. 100, 128.

quite certain that divorce is largely used in Abyssinia, since Bruce says he has seen a woman surrounded with seven former husbands. In Hayti, the only negro country that is civilised in European fashion, we find either preserved or instituted, by the side of legal monogamic marriage, free unions which recall the Roman concubinate. The persons thus paired are called "placed"; they suffer no contempt on this account, and their children have the same rights as those of persons legally married. There are at Hayti ten times more "placed" persons than married ones; they separate less often than the latter are divorced, and have better morals.[1] But in general the free union, or, what comes to the same thing, the power of divorce, left to the two united parties, is rare enough in countries more or less civilised. Most usually it is the husband who, even without any cause of adultery in the wife, has the right to repudiate her. It is thus, for example, at Madagascar, where, in order to repudiate his wife, a husband need simply declare his resolution to the magistrate who has received the notification of the marriage; it is only necessary for him to pay for the second time the *hasina*, or duty on marriage. When once he has declared his intention, the husband has still twelve days' grace to retract it; but if he exceeds this delay the repudiated wife becomes her own mistress and free to marry again.[2]

In Kordofan, among the Djebel-Taggale,[3] the great legal motive for repudiation in all the primitive legislations, sterility, justified proceedings that were absolutely savage. The ceremony was called the *nefir* (drum or trumpet). A woman being apparently sterile, the husband, before repudiating her, called noisily together all his male relatives, who, after a feast, all had intimacy with the barren wife. If this heroic expedient did not result in pregnancy, the husband sold his wife by auction, agreeing to return to his obliging relatives the difference, if any, between the first price and the sum she would fetch in the auction. Extraordinary as this custom of *nefir* may seem to us, it is, apart from the final sale, but the repetition with more shamelessness of

[1] Annie Besant, *Marriage, as it was, as it is, and as it should be.*
[2] Dupré, *Trois Mois à Madagascar*, p. 153.
[3] D. Cuny, *Journal de Voyage à Siout et à El-Obéid, en* 1857-58.

analogous practices in India, and even in ancient Greece, in case of well-proved sterility in the wife.

The Bedouins and the Touaregs in general have nothing comparable to the *nefir* of the Djebel-Taggale, but among them the extreme facility and excessive frequency of repudiations renders marriage nearly illusory. According to Burckhardt, repudiation is so common with the former that a man sometimes has fifty wives in succession.[1] With the Touaregs of the Sahara the wives themselves can demand divorce, and we have seen that they thus force their husbands to bend to monogamy, in spite of the Koran and of their polygamic appetites.[2] It seems that in certain of their tribes the women make it a point of honour to be often repudiated. Only to have one husband is, in their eyes, a humiliating thing, and they are heard to say: "Thou art not worth anything; thou hast neither beauty nor merit; men have disdained thee, and would have none of thee."[3]

This is quite in accord with the *laisser aller* habitual to the primitive Berbers in regard to marriage. In this respect, however, our Kabyles of Algeria contrast with the other ethnic groups of their race. Their conjugal customs are most rigid; neither liberty nor libertinage exist for the wife amongst them. Their customs in regard to repudiation and divorce are consequently very curious, and are worth studying in detail. In Kabyle, marriage is treated literally as a commercial affair of the most serious kind, especially for the women, who are owned as things by their husbands. The customs and the *Kanouns*, however, forbid the exchange of wives, and the husband whose wife has fled from the conjugal dwelling is forbidden to sell the fugitive except to a man of the tribe, and even then he is not allowed to have the price.[4] Still, the Kabyle husband has preserved the right of repudiation, and this right he alone enjoys, and without restriction.

There are in Kabyle two kinds of repudiation. In one, the husband simply says, "I repudiate thee;" and he

[1] Burckhardt, *loc. cit.*
[2] Duveyrier, *loc. cit.* p. 429.
[3] Raffenel, *Voy. au pays des Nègres*, t. 1er. p. 355.
[4] Hanoteau et Letourneux, *Kabylie*, t. ii. p. 164.

repeats this formula three times. The wife remains dependent on him until he sells her by means of a price of redemption. If he accepts from the father or some other man this price (*lefdi*) he must, when the sum is once counted out, declare before witnesses that he gives up all rights over his wife. Then, and only then, the marriage is dissolved.[1] Under the other form of repudiation the husband says, "I repudiate thee, and I put such a sum on thy head." The formula is pronounced once, twice, and thrice. In this case the husband is irrevocably bound, and by paying the sum fixed, the wife has the power to marry again; at the same time, the husband can specify the conditions, can say, for example, that if the woman is married to such or such a man, the price of redemption will be doubled or tripled. Sometimes the sum is so great that it amounts to an absolute interdiction of any fresh marriage, and the woman is then designated "a prevented one" (*thamaouok't*).[2] When the formula of repudiation has only been pronounced once or twice, the husband can, by means of a fine paid to the *djemâa*, and with the consent of the father-in-law, take back his wife; but he loses his reputation, and his testimony is no longer legal. If the formula has been pronounced three times, it is irrevocable. As for the other revocation, public opinion does not admit that it may be revocable, unless it has only been declared once, and that the husband find a priest who will consecrate a fresh union.[3]

If, after repudiation, the Kabyle woman marries again, and becomes a widow, the first husband can retake her without repayment and without a fine.[4]

Without pronouncing the formula of repudiation, the Kabyle husband has the power to send his wife back to her family, with the consent of the said family. If the husband has serious reasons of displeasure he sends her to her parents without forewarning them, mounted on an ass, and conducted by a servant or a negro. This treatment is so ignominious for the wife that it is equal to repudiation, and public opinion then forbids the husband to take her back. Sometimes, in case of proved adultery, the husband sends

[1] Hanoteau et Letourneux, *Kabylie*, t. ii. p. 178.
[2] *Id.*, *ibid.* t. ii. p. 177.
[3] *Id.*, *ibid.* t. ii. p. 177.
[4] *Id.*, *ibid.* t. ii. p. 179.

the wife back to her family, after having shaved her head; the guilty one is then for ever dishonoured, and however beautiful she may be, she never finds another husband.[1]

In case of repudiation, for any motive whatever, the Kabyle husband has the right to keep all his children, girls and boys, even those at the breast.[2] As for the repudiated woman, she always returns to her parents, and it is to these last that a man must apply to marry her; but the new marriage cannot be concluded until after the payment to the first husband of the price of the redemption (*lefdi*), which is sometimes more, sometimes less, than the *thâmanth*, or price of the first acquisition. Generally, too, the parents profit by the opportunity to claim a supplement, or gratification. The father often agrees first with the husband, reimburses him for the *thâmanth*, and afterwards negotiates his daughter as he pleases. In a certain number of tribes the husband can directly sell his wife, but Kabyle morality reproves this practice,[3] and permits the wife in that case to retire to her father, where she remains "prevented" (*thamaouok't*); however, if the father is powerful, he risks sometimes marrying his daughter, and the tribe at need stands by him.[4] In any case, the repudiated Kabyle woman can only marry after a delay (*aidda*), generally of four months,[5] which is conformable to the prescriptions of the Koran. If she flees the country, the parents must restore to the husband the *thâmanth* or *lefdi*, for this last can no longer gain them a new suitor.[6] The whole of this *régime* is very partial to the husband. However, as public opinion in Kabyle is sovereign, it has decreed a few protective measures for woman, recalling from afar the proverbial liberality of the Berbers in conjugal matters. Thus, though the woman is deprived of the right of divorce, she is allowed a "right of insurrection" if she has just complaints to make. In this case she begins by telling one of her relatives, who fetches her back to her father openly, the husband not being permitted to oppose; it remains to

[1] Hanoteau et Letourneux, *Kabylie*, t. ii. p. 181.
[2] *Id.*, *ibid.* t. ii. p. 184.
[3] *Id.*, *ibid.* t. ii. p. 159.
[4] *Id.*, *ibid.* t. ii. p. 180.
[5] *Id.*, *ibid.* t. ii. p. 173.
[6] *Id.*, *ibid.* t. ii. p. 180.

him either to repudiate the fugitive or to let her be a "prevented one." It is understood that custom protects an "insurgent" wife only when she takes refuge with her relatives.[1] Some tribes have tariffed the *thâmanth;* and in case of repudiation the husband can only exact or receive the ordained sum. As for the tariff of the repudiated woman, it is nearly always more than the *thâmanth*, or price of the virgin and the widow. This is done counting on the avidity of the husband, to urge him to permit a fresh marriage.[2] Lastly, it is the rule that after four years' absence on the part of the husband the union is dissolved and the woman is free.[3] This is a wise law which certain European codes might borrow with advantage from Kabyle legislation.

It is a veritable godsend for scientific sociology to be able to know in its minute details all this curious regulation of Kabyle marriage. Too often we are forced to content ourselves, in regard to savage or barbarous peoples, with general assertions that have to be completed as well as may be from accounts that are incoherent, sometimes contradictory, and always fragmentary. Here we possess a whole barbarous code, quite an assemblage of old Berber customs, which are more or less confounded with the precepts of the Koran.

The law of Mahomet itself is only a sort of compromise between the ancient customs of Arabia and the Biblical precepts relating to marriage. On certain sides the Arab customs are superior to the severity of the Kabyle kanouns, but on others they are inferior to them, as, for example, in not affording to the wife the right of "insurrection."

It is necessary to distinguish between the text of the Koran and practice, which has notably departed from it—sometimes for the better, sometimes for the worse. The Koran leaves to the husband the absolute right of repudiation. It orders that if the formula of repudiation has been pronounced three times, the husband cannot take back the wife until she has been married to another; it permits him to do it, therefore, in the contrary case.[4] It specifies that the repudiated wife should have a sufficient maintenance provided for her, and that the husband should not keep the

[1] Hanoteau et Letourneux, *Kabylie*, t. ii. p. 182. [2] *Id.*, *ibid.*
[3] *Id.*, *ibid.* t. ii. p. 180. [4] Koran, ii. 229, 230.

dower she brought with her;[1] that the husband should have four months' grace to retract his decision;[2] that if the repudiated wife is suckling an infant, the husband, or, in his default, the next heir, should supply her needs during the two years that the suckling should last.[3]

The Koran orders repudiated wives not to re-marry before three menstrual periods, not to dissimulate their pregnancy, "if they believe in God and in the day of judgment;" and in the last case it advises the husbands to take them back.[4] Lastly, the law of Mahomet encourages amicable arrangements, and these by money payments between ill-assorted couples; it authorises the husband to sell a divorce to his wife for a cession, with her consent, of a portion of her dowry.[5] This is what the texts, which are both legal and sacred, declare: this, then, is the theory. We will now see what is the practice as regards repudiation and divorce in Algeria at the present time.

There are three graduated formulas of repudiation: first, the discontented husband says simply to the wife, "Go away," and if he has only said it once or twice, he may retract his decision; second, but if he has said, "Thou art to me as one dead, or as the flesh of swine," it is forbidden to take back the repudiated wife until she has been married to another, and then repudiated or left a widow; lastly, there is a formula so solemn that it entails a separation for ever; it is this, "Let thy back be turned on me henceforth, like the back of my mother."[6]

Any one of these senseless reasons, which have often the force of law with unenlightened races, can be set aside, and the repudiation counted null when it has been pronounced during a critical period of the woman.[7] The woman with child, on the contrary, can be repudiated, but she has a right to an "allowance during pregnancy."[8] Actual custom also admits voluntary divorce, at the proposal of the wife, for a redemption paid by her to her master. Sometimes the initiative comes from the husband, who, knowing that his wife desires her liberty, says to her, "I repudiate

[1] Koran, ii. 229.
[2] *Ibid.* ii. 226, 242.
[3] *Ibid.* ii. 233.
[4] *Ibid.* ii. 228.
[5] *Ibid.* iv. 127.
[6] Meynier, *Études sur l'Islamisme*, pp. 168, 169.
[7] *Id.*, *ibid.* p. 178.
[8] *Id.*, *ibid.* 174.

thee, if thou givest me this *pallium* of Herat, or this horse, or this camel," etc. It is then a sort of divorce by mutual consent, and the two part as good friends.[1]

Lastly, there is obligatory divorce, pronounced by the Cadi, on the plaint of the woman, when the husband is impotent, when in spite of these matrimonial conventions he tries to compel the woman to quit the house of her parents, or when he has corrected her with excessive brutality.[2] Then the divorced wife goes away, taking her dowry with her.

Taken altogether, these customs, while conforming to the spirit of the Koran, have in a certain measure improved the position of the married woman. This is because progress is the law of the social as well as the organic world; more or less slowly, more or less quickly, it ends by modifying in practice even theocratic legislations, which are the most rigid of all. But the old customs are still found almost intact in certain districts of Arabia which have remained more or less completely isolated. Thus in nearly all Arab countries there is one especial reason which justifies immediate repudiation of the marriage, and that is the absence of virginity, when it has been affirmed in the agreements preceding the union. But in Yemen this circumstance justifies far more than mere repudiation; it excuses the murder of the bride;[3] it is a practical return to the old law preserved in the Bible ordering the guilty woman to be stoned.

After the manner of all barbarous legislations, that of Mahomet has corrected, or at least tried to restrain, certain especially ferocious customs; but, on the other hand, it has given the force of law to some particularly crying abuses, and has thus rendered them more difficult of redress. This is generally the case. In all barbarous societies the subjection of woman is more or less severe; customs or coarse laws have regulated the savagery of the first anarchic ages; they have doubtless set up a barrier against primitive ferocity, they have interdicted certain absolutely terrible abuses of force, but they have only replaced these by a

[1] Meynier, *Études sur l'Islamisme.*
[2] *Id.*, *ibid.* p. 174.
[3] Niebuhr, *Hist. Univ. des Voy.*, t. xxxi. p. 330.

servitude which is still very heavy, is often iniquitous, and no longer permits to legally possessed women those escapes, or capriciously accorded liberties, which were tolerated in savage life. We shall have to prove this fact more than once in continuing our ethnographic study of divorce in barbarous societies.

In ancient Peru the liberal and reasonable custom of divorce by mutual consent was adopted.[1] At Quito, at least, where marriage was not civil and obligatory, the married pair had the power of separating by mutual accord.

In Mexico divorce was merely tolerated. Before being allowed to break the conjugal tie, the couple were obliged to submit their differences to a special tribunal, which, after a minute examination of the facts, and three hearings of the parties, sent them away without pronouncing judgment, if they persevered in their design.[2] The tribunal could, it seems, forbid the separation, but it did not expressly authorise it. Its silence, however, equalled a sentence of divorce.

This luxury of legality, this pretence of placing the conjugal union out of reach of the caprice or injustice of one of the parties, can only be met with in societies already advanced in organisation.

In lamaic Thibet, where marriage is a simple civil convention, with which the theocratic government of the country does not interfere, marriages are dissolved, as they are made, by mere mutual consent; but this consent is necessary, and there only results a separation analogous to ours, and taking from the separated couple the power to re-marry.[3] With the nomad Mongols we find, in spite of a relative civilisation, the absolute right of repudiation left to the husband alone, as it is in savage countries. The Mongol husband who is tired of his wife, whom, besides, he has purchased, can send her back to her parents without giving the least reason; he simply loses the oxen, sheep, and horses that he has paid for her. On their side, the parents make no difficulty of taking her back, for they have the right to sell her again. The Mongol wife can also

[1] Prescott, *Conquest of Peru.*
[2] *Id.*, *Conquest of Mexico*, vol. i. p. 28.
[3] Turner, *Hist. Univ. des Voy.*, t. xxxi. p. 437.

spontaneously quit her husband; but this is not so simple a matter, because she represents a value. It is a capital that has fled; therefore the parents must send her back four times following to the husband-proprietor. If the latter persists in not receiving her, the marriage is dissolved, but in that case the parents must restore a part of the cattle previously paid by the marital purchaser.[1] In short, repudiation and divorce are considered in Mongolia entirely as commercial transactions, and always arranged for the advantage of the husband.

The Chinese have regulated this still quite primitive divorce, and while leaving to the husband the right of repudiation, they have carefully specified the conditions of it.

A Chinese husband can repudiate his wife for adultery, sterility, immodesty, disobedience to her father and mother or to him, loquacity or propensity to slander, inclination to theft, a jealous disposition, or an incurable malady. These motives, however, no longer suffice when the wife has worn mourning for her father-in-law or her mother-in-law; when the family has become rich in comparison with its former poverty; and lastly, when the wife has no longer a father or mother to receive her. If, heedless of these interdictions, the husband repudiates his wife all the same, he becomes liable to receive eighty strokes of bamboo, and must take her back.[2] To the husband alone belongs the right of repudiation, but the law admits divorce by mutual consent. On the other hand, it has taken good care to consecrate the servitude of the wife by ordering that if she flees from the conjugal abode when the husband refuses a divorce, she shall be punished by a hundred strokes of bamboo, and may be sold by her husband to any one willing to marry her.[3] Chinese legislation absolutely refuses the "right of insurrection" to the wife, which the Kabyle *Kanouns*, rigorous as they are to women, have granted. For divorce, as for everything else, China is at the stage of mitigated or humane barbarism. The foundation of her laws has remained savage, but a less ancient spirit has attempted to modify their severity. It has limited the right of repudiation,

[1] Huc, *Voy. dans la Tartarie*, t. 1er. p. 301.
[2] Pauthier, *Chine Moderne*, p. 239. [3] *Id.*, *ibid.*

at first in the power of the master; it has specified the impediments; lastly, it has sanctioned divorce by mutual consent, which still terrifies our legislators.

Ancient India had also left the right of repudiation to the husband, but she had no place for divorce in her legislation, and had imposed no restriction on the good pleasure of the husband if there existed one of the cases enumerated by the Code:—"A wife given to intoxicating liquors, having bad morals, given to contradicting her husband, attacked with an incurable disease, as leprosy, or who has been spendthrift of his wealth, ought to be replaced by another." "A sterile wife ought to be replaced in the eighth year; the wife whose children are all dead, in the tenth year; the wife who only bears daughters, in the eleventh; the wife who speaks with bitterness, instantly."[1] "For one whole year let a husband bear with the aversion of his wife; but after a year, if she continues to hate him, let him take what she possesses, only giving her enough to clothe and feed her, and let him cease to cohabit with her."[2]

Here it is no longer a question of divorce by mutual consent, nor of protective measures for the wife. If she is legally replaced without being repudiated, and then if she abandons with anger the conjugal abode, she must be imprisoned or repudiated in the presence of witnesses.[3] The prolonged absence of the husband does not set free the wife, even when she has been left without resources. She must patiently await the return of the absent master, during eight years if he is gone for a pious motive; six years if he is travelling for science or glory; three years if he is roaming the world for his pleasure. When these delays have expired, the deserted one is none the less married; she has only the power to go to seek the traveller.[4]

Like the writers of the Code of Manu, those of the Bible have thought very little of the rights of woman in legislating on divorce and repudiation.

The book of Deuteronomy, very accommodating for the husband, authorises him to repudiate his wife "when she find no favour in his eyes, because he hath found some uncleanness in her;" he has only to put a "letter of

[1] *Code of Manu*, ix. pp. 80, 81.
[2] *Ibid.* p. 77. [3] *Ibid.* p. 83. [4] *Ibid.*

divorce" in her hand, and may not take her again, either if she is repudiated by another husband or becomes a widow.[1] With much stronger reason a man can repudiate an immodest wife.[2] As for the wife, she could only demand a divorce for very grave causes: if the husband was attacked by a contagious malady (leprosy); if his occupations were too repugnant; if he deceived her; if he *habitually* ill-treated her; if he refused to contribute to her maintenance; and if, after ten years of marriage, his impotence was well established, especially if the woman declared she needed a son to sustain her in her old age.[3] But even then it was the husband who was reputed to have sent away his wife, and she lost her dowry.

All these antique legislations bear on the woman with shameful iniquity. The most humane have confined their efforts to placing a few slight restrictions on the brutal good pleasure of man, which nothing holds back in savage societies. But it is important to notice that certain tribes, still more or less buried in savagery, have regulated divorce with humanity enough and equity enough to put to shame the theocratic legislators of the great barbarian societies.

We discover again this iniquitous spirit in regard to the respective situations of the man and the woman in marriage in the Greco-Roman world, but it becomes moderated as ancient civilisation progresses. In primitive Greece the right of repudiation is left to the man, and he uses it whenever he thinks he has legitimate motives for doing so.[4] This right continued in more civilised Greece, but it was gradually restricted. Nevertheless, it was always a great dishonour for a woman to be repudiated. Euripides makes Medea say, "Divorce is always shameful for a woman." In *Andromachus*, Menelaus, speaking of his daughter Hermione, said: "I will not that my daughter should be driven from the nuptial bed; save that, all that a woman can suffer is relatively without importance; but for her to lose her husband is to lose her life." At Athens repudiations were frequent, and they would have been more

[1] Deuteronomy, ch. xxiv. ver. 1, 2.
[2] *Mischnah* (third part).
[3] A. Weil, *La Femme juive, passim.*
[4] Goguet, *Orig. des Lois*, t. ii. p. 61.

so if considerations of interest had not often hindered the good pleasure of the master. He was obliged, in fact, by the conditions of the law, in repudiating his wife, to restore her dowry, or pay interest at the rate of nine oboles.[1] Moreover, the relatives who were guardians of the woman could claim by law a pension for her maintenance.[2] A personage of Euripides cries mournfully: "The riches that a wife brings only serve to make her divorce more difficult."[3] However, the right of divorce was recognised for women, but custom held the laws in check by rendering it difficult for wives to perform any public action, and by imposing on them the confinement of the gyneceum.[4]

At Rome divorce evolved more rapidly and more completely than in Greece. In primitive Rome we see at first, as usual, the right of repudiation allowed to the husband and forbidden to the wife. "Romulus," says Plutarch, "gave the husband power to divorce his wife in case of her poisoning his children, or counterfeiting his keys, or committing adultery, and if on any other account he put her away she was to have one moiety of his goods, and the other was to be consecrated to Ceres."[5] The Roman husband could also put away his wife for sterility.[6] He was, however, obliged to assemble the family beforehand for consultation. If the marriage had been contracted by confarreation it had to be dissolved by a contradictory ceremony, diffarreation.[7] In the ancient law, when the crime of the woman led to divorce, she lost all her dowry. Later, only a sixth was kept back by adultery, and an eighth for other crimes.[8] At length divorce by consent (*bonâ gratiâ*) was introduced in spite of the censors; and then both parties had liberty of divorce, only with certain pecuniary disadvantages for the husband whose fault led to the divorce. Thus the adulterous husband lost advantage of the terms which usage accorded for the restitution of the dowry. In the last stage of the law the guilty husband lost the dowry, or the *donatio propter nuptias*. Inversely, if the

[1] Demosthenes, *Against Aphobus*. [2] *Id.*, *Against Neera*.
[3] Euripides, *Melanippus*, Fr. 31 (quoted by Cavallotti).
[4] Lecky, *Hist. of European Morals*, etc., vol. ii. p. 287.
[5] Romulus, xxxv. [6] Plutarch, *Demandes Romaines*, xiv.
[7] *Italie ancienne* (*Univers pittoresque*), p. 487. [8] *Ibid.* p. 488.

wife divorced without a cause, the husband retained a sixth of the dowry for each child, but only up to three-sixths.[1] The formula of the Roman repudiation recalls by its energetic conciseness the Kabyle formula, and it seems especially to relate to the property: *Res tuas habeto.*[2] The wife, even though subjected to the *manus*, obtained at last the power of divorce, by sending the *repudium* to her husband, who was then forced to set her free from the *manus.*[3] In short, divorce became in time very easy. Cicero repudiated his wife Terentia in order to get a new dowry. Augustus forced the husband of Livia to put her away, although she was with child. Seneca speaks of women counting their years, not according to the Consuls, but to the number of their husbands. Juvenal quotes a woman who was married eight times in five years. St. Jerome mentions another who, after having had twenty-three husbands, married a man who had had twenty-three wives.

Constantine, humbly obedient to the Christian spirit which had invaded his base soul, restricted the cases of divorce to three for each spouse, but always admitted mutual consent, and under Justinian the full liberty of divorce reappeared in the Code.[4]

From its origin Christianity combatted the morals called pagan, which name even was a reproach. Abandoning the modest reality, it lost anchor from the first, and was drowned in a sea of dreams. Marriage, instead of being simply the union of a man and a woman in order to produce children, became mystic; it was the symbol of the union of Christ with his church; it was tolerated only, and the church especially condemned divorce. Nevertheless, custom and good sense held out a long time against ecclesiastical unreason, and it was very slowly, in the twelfth century only, that the civil law prohibited divorce.[5] St. Jerome had allowed, as did afterwards the Christians of the East, that adultery broke the bond of marriage as well for the woman as the man, which is simply just; but this sentiment was condemned and anathematised by the Council of Trent,[6] which thus returned, contrary to the

[1] *Italie ancienne*, p. 488. [2] R. Cubain, *Lois Civiles de Rome*, p. 183.
[3] *Italie ancienne*, p. 487. [4] Lecky, *loc. cit.*, p. 352. [5] *Id., ibid.*
[6] Session xxiv., can. 17.

opinion of Papinian and the ancient jurists, to savage customs, which make the wife the slave, and not the companion, of her husband.

Among the Germans and the Scandinavians, the man alone had the right of repudiation according to the almost universal usage of barbarous peoples; however, divorce by mutual consent was tolerated.[1] The Salic law also permitted divorce, and we find in Marculphus the form of an act of divorce by mutual consent. "The husband and wife, such and such a one, seeing that discord troubles their marriage and that love does not rule in it, have agreed to separate, and leave each other mutually free, without opposition from either party, under pain of a fine of one pound."

The pagan Irish had rendered divorce useless by instituting marriages of one year, at the end of which the wife could be repudiated by the temporary husband and even ceded to another for a fresh year. These experimental marriages were made or unmade, sometimes on the first of May, and sometimes on the first of November of each year.[2]

Repudiations at the will of the husband are still in use among the Teherkesses of the Caucasus, whose customs have more than one feature in common with those of our ancestors of barbarous Europe. With them the husband can repudiate in two manners: either by sending away his wife in the presence of witnesses, and leaving the dowry to the parents, which implies the liberty to marry again for the repudiated wife; or by simply driving the wife away, and then he can recall her again during one year.[3]

In France, under the two first races, the man could put away the woman; he could even, which is more rare and original, repudiate his family, and leave it, after a declaration before the judge, and this destroyed all rights of inheritance on both sides. Later, under the influence of the Catholic clergy, who by reason, no doubt, of their want of practical experience in the "things of the flesh," claimed energetically the right of regulating all conjugal questions, a distinction

[1] Rambaud, *Hist. de la Civil. Franç.*, t. 1er. p. 107.

[2] D'Arbois de Jubainville, Preface to *Hist. inst. primit.* of Sir H. Maine.

[3] Klaproth et Gamba, *Hist. Univ. des Voy.*, t. xlv. p. 435.

was made between the separation of abode (*quoad thorum*) and complete divorce (*quoad vinculum*); the first only was permitted. The Church, always assuming to be immutable, maintained in theory the indissolubility of the sacramental marriage, and it needed the great movement of the French Revolution to shake for a moment the Catholic prejudice against divorce, which was incompletely re-established in our French code a few years ago. But the brutality of our ancient conjugal customs survives still, and they are not up to the level of our legislation, imperfect as that is. Many husbands always treat their wives as slaves, against whom everything is lawful, since in a hundred suits for separation or divorce there are ninety-one to ninety-three made by wives on account of cruelties and serious injuries.[1] Above all, our juries almost invariably acquit the husband who has murdered his adulterous wife. So difficult is it to "put off the old man."

III. *The Evolution of Divorce.*

Our various researches on the subject of divorce have led us to nearly uniform conclusions. They all show us that, however dissimilar may be the countries or the epochs, the union of man and woman begins, with very rare exceptions, by the complete slavery of the latter, and her assimilation to domestic animals, over which man has all possible rights, *a fortiori* that of driving away. Then as the ages move on their course we see societies which become by degrees civilised, and in proportion to this advance the condition of the woman improves. At first the man could kill her if she displeased him; then, cases of adultery apart, he contented himself with repudiating her; next, the severity of this right of repudiation, at first unlimited, was mitigated; then it was restricted to certain well-defined cases; some rights were even granted to the repudiated woman. At length her own right was recognised to seek divorce in order to escape from intolerable treatment. At last a return was made to divorce by mutual consent, which had been allowed in a good number of primitive

[1] M. Block, *Europe Politique et Sociale*, p. 216.

societies, before a rigid legislation, generally theocratic, had crystallised, in codifying them, some of the old barbarous customs. The Catholic prejudice itself, absurd as it was in regard to marriage, became humanised by time. Doubtless the Church continued in principle to condemn divorce, but she allowed a good number of cases of nullity of marriage, undoing thus with one hand what she attempted to build up with the other, and, willingly or not, compounding and compromising with "the world."

CHAPTER XV.

WIDOWHOOD AND THE LEVIRATE.

I. *Widowhood in Savage Countries.*—Societies without widowhood —The widow considered as property by the Hottentots and at the Gaboon, etc.—Widowhood in Kouranko, at Kaarta, and in Madagascar—The wives of Queen Ranavalo—Widowhood among the Redskins—Sacrifices and mutilations of widows.

II. *Widowhood in Barbarous Countries.*—Widowhood in Bhootan—Polyandric widowhood—Widowhood in China—Traffic in the widow —Glorification of widowhood—Suicides of widows—Widowhood in India—Duties of widows—*Suttees*—Widowhood in Islamite countries—Position given to the widow in the Koran—Position given to the widow in the Bible—Widowhood in Kabylia—The sleeping fœtus—Widowhood in ancient Rome—Opinion of the Christian Church on second marriages—Widowhood in barbarous Europe and in the Middle Ages.

III. *The Levirate.*—The levirate in Melanesia, among the Redskins, the Ostiaks, the Kirghis, the Afghans, in the Code of Manu, among the Hebrews.

IV. *Summary.*

I. *Widowhood in Savage Countries.*

We have very little knowledge as to the condition of widows in the lowest human societies. It is one of those questions of social organisation hardly noticed by the travellers to whom we look especially for information.

To begin with, we may affirm that widowhood, regarded as a special condition recognised by customs and laws, does not exist in very anarchic societies. Voltaire has somewhere said that the origin of divorce was doubtless posterior by some days to that of marriage. With much stronger

reason may we infer, that the existence of some kind of marriage is necessary before there can be any widowhood. Widowhood, therefore, does not exist in societies where promiscuity or temporary marriage prevails. No widowhood is possible, for example, in the tribe of the Australian Kamilaroi, where all the women of a class are common to all the men of the same class. It became otherwise from the time that, either by capture, purchase, or any other means, woman became the particular property of one man. Thenceforth it was necessary to regulate in some way the condition of the widow or widows. Generally the solution of the problem has been very simple: the widow, who has been habitually captured or bought by the deceased, does not cease after his death to be regarded as a thing or property; she is part of the inheritance, by the same title as chattels or domestic animals. Sometimes, however, special obligations or troubles are imposed on her; Kolben tells us that in passing to a fresh husband, the Hottentot widow must cut off a joint of the little finger; but to cut off a finger-joint was a common custom with the Hottentots on the death of a relative, and the women did it, or were forced to do it, more often than the men. There is nothing in this particular to the condition of the widow.[1] At the Gaboon a man's wives belonged to his heir, and if the deceased was of importance in the tribe, they must resign themselves to a period of mourning and of widowhood, which lasts a year or two. The end of this mourning is marked by a great festival or orgy, which Du Chaillu has thus described—"The wives of the deceased (he had seven) were radiant . . . they were going to quit their widow's clothes and join the festival like brides. The heir had the right to marry them all, but to show his generosity, he had ceded two to a younger brother and one to a cousin." They drank bumper after bumper (palm wine), and then began to dance. "The wives danced. But what dances! The most modest step was indecent."[2]

In equatorial Africa, the son inherits the widows of his

[1] Burchell, *Hist. Univ. des Voy.*, t. xxvi. p. 321.—Thompson, *ibid.*, t. xxix. p. 163.

[2] Du Chaillu, *Voy. dans l'Afrique équatoriale*, p. 268.

father: it is thus in Yarriba.[1] Sometimes they are sold simply, if they have had no children by the deceased husband.[2] In Kouranko, widows have a milder fate. They are numerous; for, as young girls, they have generally been sold by their parents to old husbands; but according to Laing, the custom of the country renders them free, and makes them their own mistresses as soon as they are widows, and they profit by this immediately to choose themselves a young husband, and lavish cares and attentions on him; it is then their turn.[3] Nevertheless, the custom of classing widows with the heritage seems very general in negro Africa. It exists with the Bambarras of Kaarta, where, at the death of a prince, his successor puts the wives of the deceased monarch up to auction. Even if old and horrible, they sell easily and dear, for men like the honour of succeeding to a king.[4] We shall find the same usage again in Madagascar, at least in the noble families of the Hovas. On ascending the throne, Radama simply kept all his father's wives. So obligatory is this on the reigning sovereign, that at the death of the same Radama, his widow Ranavalo was bound to keep, by the title of *wives*, all her husband's widows. Then, in a great council held after her elevation to the throne, it was decided that the Queen Ranavalo could not marry again, but would be free to take lovers at her will, and that all the children born of these fugitive unions should be considered as the legitimate posterity of Radama.[5] By this ingenious measure all was conciliated—respect to custom, the liberty of the queen, and the regular succession to the throne.

We shall find again in very different countries this savage custom of considering widows as a simple property, transmissible by inheritance. Sometimes the heir succeeds simply to the deceased husband; sometimes he accepts and exacts an indemnity, in case the widow re-marries. Such was already the custom with the Smoos of Central America. There the widows belonged by right to the

[1] Clapperton, *Second Voyage*, p. 90.
[2] *Id.*, *ibid.* p. 156.
[3] Laing, *Hist. Univ. des Voy.*, t. xxviii. p. 71.
[4] Raffenel, *Nouveau Voyage au Pays des Nègres*, t. 1er. p. 389.
[5] Dupré, *Trois Mois à Madagascar*, p. 124.

relatives of the deceased husband; and in order to contract afresh, they had to pay to these relatives what was called "widow money."[1] Inversely, with the Kliketats, if a woman happened to die very soon after her marriage, the husband who had bought her could claim her price back from the parents;[2] he had been deceived in the quality of the merchandise.

This was not all; as long as the mourning lasted, the widow was always considered, in certain districts, as having duties to fulfil towards her dead husband, or rather towards his shade. Thus, with the Sambos of Central America, she had to furnish a sufficient quantity of food during a year to the tomb of the deceased;[3] and it was the same in Mexico.[4]

In many of the Redskin tribes second marriages are not tolerated by custom till after a very long delay, exacted for reasons that have nothing savage in them; it is simply that the children of the first marriage may be grown out of their early infancy, and the custom is obligatory for the man as well as for the woman. The Selish widow only marries after two years;[5] but the delay is sometimes from two to three years for the widower as well as for the widow.[6] With the Nez-Percés of Columbia, the widower can marry again at the end of one year.[7] With the Omahas the delay was much longer, from four to seven years for the man and the woman. This rule was very strict, and in case of its infraction, the parents of the dead husband had the right to strike and wound, but without killing, the widow who might be too hasty in marrying again. In a parallel case, they confined themselves to taking a pony from the man;[8] this was because a man could defend himself. On the contrary, if the widower waited much beyond the legal time before marrying again, the parents or relatives of the dead wife thought themselves obliged to intervene. "This man," said they, "has no one to sew his mocassins; let us

[1] Bancroft, *Native Races of Pacific*, etc., vol. i. p. 731.
[2] *Id.*, *ibid.* vol. i. p. 277.
[3] Bancroft, *loc. cit.*, p. 731.
[4] Demeunier, *Esprit des Différents Peuples*, t. 1cr. p. 244.
[5] Bancroft, *loc. cit.*, p. 277.
[6] Doménech, *Voyage Pittoresque*, etc., p. 516.
[7] Bancroft, *Native Races*, etc., yol. i. p. 277.
[8] O. Dorsey, *Omaha Sociology*, in *Smithsonian Reports*, p. 267 (1885).

seek a wife for him." When they did so, the widower was bound to accept their offer.[1]

This question of widows has evidently been very embarrassing for primitive societies. They have either been kept or sold, according as it might be agreeable or advantageous. But another very simple way of getting rid of the encumbrance has been to sacrifice them on the tomb of the dead husband. Nothing is less rare than such immolations in savage countries, and these atrocious acts are often inspired by affectionate sentiments, by care for the fate which awaits the deceased husband after death. How can they let him travel alone on that dangerous journey beyond the tomb? This is the reason of the widely spread custom of human sacrifices, which chiefly consist of women and slaves. I quote a few facts of this kind, simply as specimens.

In certain tribes of New Zealand the widows were strangled on the tomb of the deceased husband.[2] In equatorial Africa, at Yourriba, when the king dies, four of his wives and a number of slaves are forced to poison themselves. The poison is poured into a parrot's egg for them, and if it does not produce any effect the patients must supplement it by hanging themselves. At Jenna, on the Niger, at the death of a chief, one or two of his widows must commit suicide the same day, in order to furnish him with pleasant company in the country beyond the tomb, of which he is going to take possession.[3] At Katunga, the chief wife of the deceased king is obliged to poison herself on the tomb of her husband, in company with the eldest son and the principal personages of the kingdom. All these victims must be buried with the dead master.[4]

The massacres by which the death of the king of Dahomey is solemnised are well known, and in them also the wives play an important part as victims. We know that the primitive Germans had analogous customs; for savages of all countries, to whatever race they belong, resemble each other and repeat themselves.

[1] O. Dorsey, *loc. cit.*
[2] Moerenhaut, *Voy. aux îles*, etc., t. ii. p. 187.
[3] Clapperton, *Second Voyage*, vol. i. p. 94.
[4] R. and J. Lander, *Hist. Univ. des Voy.*, t. xxx. p. 54.

Among various peoples funeral sacrifices are replaced by mutilations more or less voluntary, and especially obligatory on widows. As examples, I may mention the amputation of the little finger by the Hottentots, the Melanesians, and the Charruas; and the gashes which Polynesian widows made on their faces and bodies. These bloody demonstrations were obligatory, and far from corresponding to a real grief. At Noukahiva Porter saw a widow, the funeral wounds still fresh on her neck, breast, and arms, prostitute herself to American sailors.[1]

This review of savage manners and customs in regard to widows has only been a long enumeration of cruelties and iniquities, and these, although much lessened in barbarous countries, do not, by any means, disappear.

II. *Widowhood in Barbarous Countries.*

The natives of Himalayan Bhootan are sometimes monogamous, sometimes polygamous, and sometimes polyandrous, and these variations naturally affect the conditions of widowhood. Among the monogamous and polygamous, the widows can only marry again after a delay of three years. This regulation, which we have already found among the Redskins, has doubtless been dictated by the same reasons; and taken with many other similarities existing in very dissimilar races and countries, it tends to prove that scientific sociology can be more than a mere name or imagination. In the Himalayan Bhootan, a widow who has no repugnance to polygamy has many chances of marrying again, if she has a younger sister still free, whom the new husband can marry at the same time.[2] In polyandrous families there can hardly be any real widowhood for the woman. Thus, at Ladak, if the eldest brother, the husband in chief, happens to die, his property, authority, and share of the wife pass to the next brother, whether the latter be or not one of the husbands.[3] This is a sort of levirate which naturally exists in polyandrous households,

[1] Porter, *Hist. Univ. des Voy.*, t. xiv. p. 331.

[2] *Voyage au Bootan*, by a Hindoo author, *Revue Brittanique*, 1824.

[3] Morcroft and Trebeck's *Travels*, vol. i. p. 320.

and obviates at once the question of widowhood, so embarrassing to the other forms of marriage. This question of widows has been solved very grossly, and sometimes very cruelly, in the Middle Empire or China proper. Although on certain sides the old Chinese civilisation puts ours to shame, it is very backward in relation to all that concerns widows. We have previously seen that during her whole life the subjection of the Chinese woman is extreme, that she owes obedience first to her parents, then to her husband, then to her son, and that she is married, or rather sold, without being consulted at all. But widowhood does not even set her free, for she represents a value which the relatives of the husband inherit, and which they hasten to profit by. It often happens, therefore, that the Chinese widow is made to marry again, or rather, is sold again, and this time, also, no one dreams of asking her consent. The child at the breast, if there is one, is included in the bargain. In order to moderate the haste of covetous parents, the law has been obliged to intervene, and prevent the sale of the widow before the expiration of the time of mourning. The Chinese widow, if she wishes to escape this traffic in her person, and is without fortune, has no resource except to become a bonzess. Those widows only whose rank or riches place them above the common, are able to pass the rest of their days without being united to a fresh husband;[1] this posthumous fidelity is much encouraged in China by public opinion, whenever interest does not forbid it. The betrothed maiden, who may become a widow before being a wife, is much esteemed if she buries herself for ever in an enforced sorrow; but naturally, a reciprocal demand is not made on the betrothed man who may lose his *fiancée*. If the rich widow who remains inconsolable is much praised, she who refuses to survive her husband receives greater honour. Tablets are erected in the temples in memory of young girls who have killed themselves on the tombs of their betrothed, and twice a year certain mandarins make oblations in their honour.[2] With much stronger reason is this done for real widows.

[1] *Lettres édifiantes*, t. xiii. pp. 349, 353.
[2] Doolittle, *Social Life of the Chinese*, p. 78.

In 1857 the *Pekin Gazette* published a decree, according a tablet to the memory of the wife of a mandarin who had poisoned herself on hearing of the death of her husband in a battle against the rebels. These suicides of widows are performed in public, with great pomp and solemnity. In January 1861 two young widows thus committed suicide at Fou-Chow, in presence of several thousand spectators. Another did the same at the end of December 1860.[1] It would seem, therefore, that these suicides are frequent enough even at the present time. From observations made during the Anglo-French Expedition to China, it appears that they are generally widows without children or relations who thus sacrifice themselves; they do it openly and with much ceremony. A month beforehand, the widow goes in procession through the town, as has been thus described:—"Two executioners headed the procession; then came musicians; then men dressed in coarse linen tunics with hoods, carrying parasols, little pagodas, boxes of perfumes, and streamers. After them came a third executioner, followed by a second group bearing poles, surmounted by figures of fantastic animals. And lastly came a mandarin's palanquin, surrounded by numerous servants of both sexes, dressed in mourning, which consisted of grey linen. In the palanquin was the heroine of the *fête*, a young woman dressed in red (the imperial colour), and crowned with a blue diadem. Her red satin robe was ornamented with lace and gold embroidery. This solemn procession had no other object than to announce the suicide to the public, and invite them to attend it on the following moon, day for day. The young widow was exact in appearing at the rendezvous, and tranquilly hung herself at the date fixed."[2]

With differences of form and mode of execution, India devotes her widows to a similar fate.

It seems, indeed, that in India also the widow is, or has been, considered as the property of the relatives of her dead husband, for a verse of the Code of Manu orders that if she has been sterile, a relative shall endeavour to make her conceive. Very striking and primitive is the inequality of

[1] Sinibaldo de Mas, *Chine et les Puissances Chretiennes*, t. 1er. p. 55.
[2] Comte d'Hérisson, *Journal d'un interprète en Chine*, p. 132.

the obligations imposed by Indian law on the widower and on the widow.[1]

Here is the law for the husband: "Every Dwidja knowing the law, who sees his wife die before him, if she has obeyed these precepts, and is of the same class as himself, must burn her with consecrated fires and with utensils of sacrifice." —"After having accomplished thus with consecrated fires the funeral ceremony of a wife who has died, let him contract a new marriage, and light a second time the nuptial fire."[2] As for the widow, her duty is very different: "A virtuous woman, who desires to obtain the same abode of felicity as her husband, must do nothing which may displease him, either during life or after death."—"Let her willingly emaciate her body by feeding on flowers, roots, and pure fruits; but, after losing her husband, let her not pronounce the name of any other man."—"But the widow, who, through the desire of having children, is unfaithful to her husband, incurs contempt here below, and will be excluded from the celestial abode whither her husband has gone."—"Nowhere in this Code is the right of taking a second husband assigned to a virtuous wife."[3]

The obligation not to marry again, and especially that of living on flowers and fruits, are sufficiently vexatious, but they are nothing to the suttees, or burning alive of widows, which were quite recently common in Bengal. The Code of Manu does not speak of this abominable custom, though it was very ancient, for Diodorus mentions it, and relates how the two widows of Ceteus, an Indian general under Eumenes, disputed the honour of burning themselves with the corpse of their husband. The description which Diodorus gives corresponds in every detail with what took place at the suttees quite recently; so slow to change are these old theocratic societies. One of the wives, says Diodorus, could not be burnt because she was with child. The other advanced to the funeral pile crowned with myrtle, adorned as for a wedding, and preceded by her relatives, who sang hymns in her praise. Then after having distributed her jewels to her friends and domestics, she lay down on the

[1] *Code of Manu*, ix. 64. [2] *Ibid.* v. 167, 168.
[3] *Ibid.* v. 156, 157, 161, 168.

funeral pile by the side of her husband's body, and died without uttering a cry.[1]

At that time, according to Diodorus, the law only allowed the sacrifice of one wife. In the eighteenth century it was more exacting. In fact, the writers of the *Lettres édifiantes* have described in detail several sacrifices of this kind. The custom was no longer observed except by wives of grandees, and especially of rajahs; but all of these were burnt, save the women with child, whose suffering was only deferred.

In 1710, at the death of the Prince of Marava, aged eighty years, all his wives, to the number of forty-seven, were burnt with his corpse, which was richly adorned and placed in a large grave filled with wood. The victims, who were covered with precious stones, stepped at first very bravely on the funeral pile; but the moment the flames reached them, they uttered loud cries, and rushed on each other. The spectators succeeded in calming them by throwing a number of pieces of wood at them; afterwards their bones were gathered up and thrown into the sea, and a temple to their honour was erected over the grave.[2] At that date, and in that part of the country, even women with child were only temporarily spared till after their delivery.[3] Two other princes, vassals of Marava, having died at the same epoch, and leaving, the one seventeen, the other thirteen widows, all these unfortunate creatures were burnt together, except one, who, being with child, could not sacrifice herself until later. The suttees were not a legal obligation; relatives even tried to dissuade the widows from it; but the point of honour, and the fear of public opinion, or rather of public contempt, were stronger with them than love of life.[4] The mode of burning varied in different provinces. In Bengal the woman was bound firmly to the corpse, and the two bodies were covered with bamboos. In Orissa, the widow threw herself on the pile, which was in a pit or grave. In the Deccan, a country which was in great part Tamil, and where suttees were much more rare, the widow sat on the pile, and placed the head of her dead husband on her knees. She remained thus,

[1] Diodorus, book xix. p. 34.
[2] *Lettres édifiantes*, t. xiii. pp. 23, 28.
[3] *Ibid.* p. 30. [4] *Ibid.* p. 32.

motionless, until she was suffocated by the smoke, or overthrown by the fall of heavy logs of wood, previously attached with cords to posts placed at the four corners of the pile. It is said that in certain provinces the victim was intoxicated with opium beforehand. Sometimes also, proper precautions not having been taken, it happened that she rushed madly out of the flames, and was then brutally thrust back by the spectators.[1]

These frightful customs, which have hardly yet disappeared from India, are but survivals from the times of savagery: such brutalities were habitual in a number of primitive societies, as I have previously shown.

In the Koran, in the Bible, and among the Arabs, or rather the contemporaneous Islamites, we find nothing analogous to this; but the position given to the widow is none the less unenviable.

A verse of the Koran shows us that before the time of Mahomet, sons inherited all their father's wives as a matter of course, in African fashion: "Thou shalt not marry the women who have been thy father's wives; it is an abomination and a bad practice."[2] We have seen that this most gross custom, against which Mahomet inveighs, still prevails in various countries, and especially amongst the negroes of tropical Africa. It must have been general at the time of Mahomet, even amongst the Arabs, since the prophet states that his law need not have any retrospective effect: "Let that remain," proceeds the same verse, "which has already been done."

There is one point, however, on which the Koran is in advance of the greater number of barbarous societies, and even of the Bible. It recognises, in fact, the right of a widow to inherit from her husband; this right gives her a fourth, if there is no child, and an eighth only in the contrary case.[3] But notwithstanding this the widow was often abandoned, or, what is worse, confounded with the heritage. The Bible was less kind to the widow. It specifies indeed that the fortune of the husband is security for the personal effects and the dowry of the wife, but it does not place her among her husband's heirs. The Jewish

[1] *Lettres édifiantes*, t. xiii. p. 27.
[2] Koran, iv. 26. [3] *Ibid.* iv. 14.

widow was a charge on her children, or, if she had none, on her own family.[1] The abandoned widow had no other resource than her share in the offerings and public charity.[2] The injunction is indeed given not to afflict her;[3] it would certainly have been better to grant her some rights.

In Judæa, the wife was bought by her husband; it is therefore probable that, in primitive times, she formed a part of his wealth, as is the case now among the Mussulman Afghans and among the Kabyles.

In Afghanistan, the widow, being a mortgaged property, cannot re-marry until the price of purchase paid for her by her deceased husband has been reimbursed to the parents of that husband.[4] In a great number of Kabyle tribes, the widow remains "hung" to her dead husband—that is to say, she is counted part of the heritage.[5] Generally she returns to her family, and her father or her relatives sell her a second time.[6] If, however, she has children, especially male children, she cannot be forced to marry again; but then the son redeems her, or she deducts from the property of her children the sum necessary to redeem herself from paternal power.[7] In the tribe of Aït Flik, heirs have, by pre-emption, the privilege of marrying the widow, and that without having to pay the *thâmanth*.[8] It is understood that while awaiting the day when she is to be disposed of again, the Kabyle widow is bound to the strictest chastity. If she becomes with child, she is punished by stoning.[9]

Like the Bible, and nearly all other legislations, the Koran only allows the marriage of a widow after a certain term of delay. In the Koran, this term is four months and ten days;[10] and if the woman is with child, the delay must extend till after her delivery. But there are some pregnancies that are either imaginary or fictitious, and which come to nothing, yet in Arab countries successions are suspended on account of them. If, at the moment of her husband's death, a woman thinks herself with child, she

[1] Leviticus, xxii. 13.
[2] Deuteronomy, xxvi. 12.
[3] Leviticus, xxii. 13.
[4] M. Elphinstone, *Picture of the Kingdom of Cabul*, vol. i. p. 168.
[5] Hanoteau and Letourneux, *Kabylie*, p. 156.
[6] *Id.*, *ibid.* t. ii. p. 156.
[7] *Id.*, *ibid.* t. ii. p. 158.
[8] *Id.*, *ibid.* t. ii. p. 157.
[9] *Id.*, *ibid.* t. iii. p. 77.
[10] Koran, t. ii. p. 234.

places her girdle on the body of the deceased; note is taken of it, and the time awaited. If the waiting is vain, at the end of eleven months the widow is visited and examined by matrons; and if nevertheless the professed pregnancy has no result, the child who refuses to be born is called "asleep" for an indefinite time. Henceforth the widow is free, and if she ends by becoming a mother, her child, awaited so long, is reputed to be the son of the husband dead years before, and inherits from him.[1]

This singular prejudice is common to the Kabyles and to the Arabs. A number of Mussulman legists have vainly tried to overcome it. All that they have been able to do is to limit to four or five years, generally to four, the duration of this pretended "sleep" of the fœtus.[2]

The widow has not been more worthily treated at the origin of Greco-Roman civilisation than in the other barbarous civilisations. It would be strange if it were so. We have seen that at Athens the woman, even when married, was part of the paternal patrimony; that the dying husband could leave her by will to a friend, with his goods, and by the same title; that at Rome the wife was bought and subjected to the terrible right of the marital *manus*.

For a long time at Rome, as in China at the present day, the widows who did not marry were particularly honoured The widower married again immediately after his wife's death; widows, on the contrary, were in any case forbidden to marry before a delay of six months, afterwards extended to twelve months, and that under pain of infamy for the father who had made the marriage, for the husband who had taken the widow, and later for the re-married woman also, when infamy also applied to women. By degrees Roman customs and laws improved on this point as on others. The *Leges Julia* and *Papia Poppæa* encouraged second marriages, in opposition to the ancient prejudice; the *Institutes* ordained that when the widow was poor and without dowry, she could inherit from her husband one-fourth if there were three children, and a full masculine share if there were none.[3] But the triumph of Christianity

[1] Hanoteau and Letourneux, *Kabylie*, t. ii. p. 174.
[2] *Id.* p. 175.—E. Meynier, *Études sur l'Islamisme*, p. 175.
[3] Domenget, *Institutes de Gaius*, p. 336.

was the signal for a retrograde movement. Constantine returned to the old ideas of primitive Rome, and went so far as to inflict on second marriages pecuniary penalties, which were to be paid to the children of the first marriage.[1] In acting thus, the neophyte emperor was acting up to the logic of the Church, in whose eyes marriage itself was an evil rendered necessary by the sin of Adam, and by whom second marriages were emphatically condemned.[2]

From the fusion of Christian doctrines with the gross customs of more or less barbarous European races, on the subject of women and marriage, there resulted for the widow a position of extreme subjection. Among the Germans, as among the Afghans and Kabyles, the widow became again the property of her own family, and in order to marry her, it was necessary to pay a special price, the *reipus*, which was double the *mundium* or price of the first purchase.[3] The Salic law decreed that at the age of fifteen the son should be the guardian of his widowed mother. The Lombard law decides also that the widow shall not marry again without the consent of her son (section xxxvii.); and this consent was necessary even for her to enter a convent. Thus Theodoric, adopting with barbarous fury the opinions of the Church on second marriages, promulgated a law interdicting widows from marrying again, and condemning to the flames any man who should be convicted of having had commerce with them.

These objections to second marriage, or at least the blame attached to them by public opinion, are common in many ancient societies. We have found them in India, in ancient Rome, and Greece, etc. We can only attribute this way of thinking, senseless and unjust as it is, to a sort of delirium of proprietorship in the husband, who pretends still to rule over and possess his wife from beyond the tomb, but chiefly to the desire of avoiding disturbances in the transmission of hereditary wealth, when the women were able to have possessions of their own. The levirate, of which I am now going to speak, remedied the latter inconveniences.

[1] *Italie ancienne*, p. 488.
[2] Lecky, *loc. cit.*, vol. ii. pp. 321, 324.
[3] Giraud-Teulon, *Orig. du Mariage*, etc., p. 336.

III.—*The Levirate.*

The levirate is the name given to the obligation imposed by custom or law on the brother of the deceased husband to marry his sister-in-law when she became a widow. This custom of the levirate, which for a long time has been thought peculiar to the Hebrews, is very widely spread, and is found among races most widely differing from each other. There is surely good reason for it in savage or barbarous societies where for a woman abandonment would mean death.

I will enumerate some of the peoples who practise the levirate, beginning as usual with the inferior races.

We meet the levirate first in Melanesia, at New Caledonia, where the brother-in-law, whether he be already married or not, must marry his brother's widow immediately.

We also find the levirate among the Redskins, particularly the Chippeways; and at Nicaragua, where the widow belongs either to the brother or nearest relative of her deceased husband.[1]

With the Ostiaks, the next brother of the husband is obliged to marry his widow or widows; for the Ostiaks, like the Redskins, often take for wives a whole set of sisters.[2] It is the same with the Kirghis, and in general with the nomad Mongols.[3] The Afghans also make it a duty of the brother-in-law to marry his sister-in-law, on her becoming a widow.[4]

The Code of Manu imposes the levirate even on the brother of a betrothed man who dies: "When the husband of a young girl happens to die after the betrothal, let the brother of the husband take her for wife."[5] The object of this legal precept in India is to give a posterity to the deceased brother; for the following verse seems to limit the duration of the cohabitation with the widowed

[1] Bancroft, *Native Races*, vol. ii. p. 671.
[2] Castren, *Reiseberichte und Briefe aus den Jahren*, 1845-1853, p. 56.
[3] MacLennan, p. 158.
[4] M. Elphinstone, *Picture of the Kingdom of Cabul*, vol. i. p. 168.
[5] *Code of Manu*, ix. 69.

fiancée, and it seems indeed that all commerce is to cease after the first pregnancy.[1]

We will now consider the Hebrew levirate, which is only a particular case of a very general fact.

We find the levirate mentioned twice in the Bible. At first in Genesis: "Judah said unto Onan, Go in unto thy brother's wife, and perform the duty of an husband's brother unto her, and raise up seed to thy brother."[2] Again, in Deuteronomy: "If brethren dwell together, and one of them die, and have no son, the wife of the dead shall not marry without unto a stranger; her husband's brother shall go in unto her, and take her to him to wife, and perform the duty of an husband's brother unto her. And it shall be, that the first-born whom she beareth shall succeed in the name of his brother which is dead, that his name be not blotted out of Israel."[3] The Hebrew levirate was therefore a sort of obligatory and fictitious adoption of a nephew by the deceased uncle. We shall soon see that in all primitive or barbarous societies this adoption is largely practised, and that it is absolutely equivalent to a real filiation.

The verses which follow inform us that, with the Hebrews, the levirate was rather a moral than a legal obligation; the brother-in-law could even refuse it; but in refusing, he incurred the public contempt, and had to submit to a degrading ceremony: "And if the man like not to take his brother's wife, then his brother's wife shall go up to the gate unto the elders, and say, My husband's brother refuseth to raise up unto his brother a name in Israel, he will not perform the duty of an husband's brother unto me; then the elders of his city shall call him, and speak unto him: and if he stand, and say, I like not to take her; then shall his brother's wife come unto him in the presence of the elders, and loose his shoe from off his foot, and spit in his face, and she shall answer and say, So shall it be done unto that man that doth not build up his brother's house. And his name shall be called in Israel, The house of him that hath his shoe loosed."[4]

In India the principal object of the levirate, applied

[1] *Code of Manu*, ix. 70.
[2] Genesis, xxxviii. 8.
[3] Deuteronomy, xxv. 5, 6.
[4] *Ibid.* xxv. 7-10.

to the widowed *fiancée*, was to furnish the deceased man with a fictitious son, who could perform for him the sacrifices to the manes, a duty of the highest importance in the religion of Brahma. For the Hebrews, a much more practical people than the Hindoos, the levirate had only an earthly object—that of keeping up the name or family of the deceased, and all that belonged to it. It may be compared with the obligation imposed at Athens on the nearest relative in the masculine line to marry the heiress, or to supplement at need the impotence of the husband.

The old practice of the levirate still exists in Abyssinia with this curious detail, that it is applied during the lifetime of the husband if he has been the victim of an accident, frequent in the Abyssinian wars, of emasculation. The mutilated husband, being thus struck with what might be called "virile death," his brother succeeds him in his marital rights and duties.[1]

Some sociologists, too much given to theorise, have tried to prove that the levirate was a remnant of polyandry. Certainly the levirate is practised under a polyandric *régime*, but polyandry has never been more than an exceptional mode of marriage, and there is hardly any trace of it among the New Caledonians, the Redskins, the Mongols, the Afghans, the Hindoos, the Hebrews, the Abyssinians, etc., who, all of them, practise different varieties of levirate.

The much more natural reasons that I have given above appear to me quite sufficient and more probable.

IV. *Conclusions.*

From a consideration of all these facts, we find that the fate of the widow has varied according to the matrimonial form in use, and according to the degree of civilisation, but that it has not always been ameliorated in proportion to the general progress. Laws and customs have ever been kind to the widower. It has been very different for the woman, and her position has perhaps been better, from our point of view, in certain primitive societies, than it became later. Thus, in the confused state of primitive families,

[1] A. d'Abbadie, *Douze ans de séjour dans la haute Éthiopie*, p. 273.

when men lived either in a freedom almost bordering on promiscuity, or in groups half polyandric or polygamic, and more especially in polyandrous countries, there was no actual widowhood, or state of being a widow, for woman. The disappearance of one of the men with whom she lived in intimate relations made no great change in her position. Under a polygamic *régime* it is quite otherwise; for then the wives are private property. Their master has nearly always bought them, and their subjection is very great. Therefore, at the death of their master, they are treated exactly like things; they follow the fate of the goods, and pass into the hands of the heir, who can keep or sell them. Sometimes, however, they are sacrificed in greater or less numbers on the tomb of the dead husband, whom they must continue to serve and love in the future life.

Under a monogamic *régime* societies are generally more civilised, and the dominating ideas are then the care of property, and sometimes the perpetuation of the name. The widow cannot inherit, for the property must not be divided. She is then a most embarrassing incumbrance. Sometimes she is persuaded to follow still into the next world the husband who has preceded her thither; this is the most radical solution. Sometimes her relations marry her again, and obtain a second price for her; sometimes she is provided for by the levirate.

Traces of these ancestral iniquities are still preserved in our modern codes, which, though nearly emancipating the widow, push the fanaticism of consanguinity so far as not to consider her as the relative of her husband as concerns property. From a social point of view, the whole of this survey of the treatment of widows is not flattering for humanity. In short, from a moral point of view, the easy resignation with which men and women bear widowhood, places mankind, as regards nobility of sentiment, far below certain species of animals, as, for example, the Illinois paraquet (*Psittacus Illinois*), for whom widowhood and death are synonymous, as well for the male as the female. Doubtless it might be alleged that even in so-called highly civilised societies people do not marry as a rule from any lofty sentiment; but that is surely a poor excuse.

CHAPTER XVI.

THE FAMILIAL CLAN IN AUSTRALIA AND AMERICA.

I. *The Family.*

II. *The Family in Melanesia.*—Melanesian rape—First formation of societies—Exogamy—The Australian clans—Native marriage state—Marriage of clans among the Kamilaroi—Their social incest—How a clan originates—Fictitious fraternity and the *totem*—How individual marriage is made among the Kurnai—Maternal filiation—Agnation tends to be constituted—Evolution of the family in Melanesia.

III. *The Family in America.*—The Redskin clans—Common dwellings—Rights and duties—Exogamy of the clan—Clans of the *Pueblos*—The family among the Indians of South America—Relationship among the Redskins—Communism—Maternal filiation—Distinction between the matriarchate and the maternal family—Origin of the ideas of relationship.

I. *The Family.*

I shall now attempt to retrace as clearly as I can the history of the evolution of the family, first of all ascertaining the facts that have been observed, and then using these facts as a touchstone to try the solidity of the various sociological theories that have been put forth on the subject. Among these theories, there are some which have been very favourably received, and not without reason. Insufficient as they might be, they reduced a chaos of facts into order, and contained a certain amount of truth. All of them are open to criticism and contest, both because they are the fruit of a too hasty generalisation, and because their authors have claimed for them a certainty which sociological facts do not easily bear out. Human groups have always lived as they could, without caring about theories; their social

conduct inevitably results from a sort of compromise in the conflict between their appetites, their aptitudes, and the necessities dictated by their physical environment.

Before hazarding any general conclusions, I shall be careful, as before, to refer to comparative ethnography, and to interrogate the various human races, from the lowest to the most elevated. This inquiry will enable us to form a rough idea, with a certain approximation to truth, in regard to the probable evolution of the family in humanity. But in order to approach this subject with sufficient impartiality, it is absolutely necessary to clear our minds from all the current theories in regard to the family. There is, in fact, no theme which has inspired more empty oratorical lucubrations. The doctrine has been firmly held that the family, as we have it instituted in Europe and in European colonies, is the *beau ideal*, the sacred and immutable sociological type. Ethnography, however, and even history, teach us that the present familial type of Europe has not always existed, and that it is the result, like everything else, of a slow evolution; from whence it is reasonable to infer that it will still continue to be modified. But facts are more eloquent than reflections; I will therefore approach them, beginning with the lowest human races, the Melanesians.

II. *The Family in Melanesia.*

In my sketch of the family in the animal kingdom, I have already had occasion to remark that the family, such as we understand it, is not indispensable to the maintenance of societies, since the ants do without it in their republics, in which we find neither paternity nor maternity, in the sense we attach to them, but simply three classes of individuals, the breeders, the young, and the educators.

With these last, the working ants, by a paradoxical contradiction, maternal love has survived the atrophy of the generative function; it is even purified and widened, for it is lavished without partiality on all the young ones, which form the hope of the republic; and though thus diluted, it seems to have lost none of its energy.

Nothing at all similar is seen in inferior human societies,

but the family is still, however, in a confused state; paternity, in the social sense of the word, does not exist; filiation is especially maternal, but the actual degrees of consanguinity are not well distinguished in detail; parenthood is not yet individual, but is constituted in groups.

In the present day we may still study this familial confusion in certain Australian tribes. We have seen that marriage, or what goes by that name, resulted in Tasmania, Australia, Bali, etc., from a violent and brutal rape, generally ratified by a compensation and a simulation of retaliation between the tribe of the woman and that of the ravisher.

Among the least savage tribes of Melanesia, this rape is often fictitious, in which case it is no more than a survival; but sometimes it is still real, and it surely must always have been so at the origin of the Australian societies. But however gross these societies may be, they are none the less the result of a long evolution. In the interior of Borneo there are still existing human beings compared with whom the Australians are civilised people. These absolutely primitive savages of Borneo are probably the remains of negroïd peoples, who must formerly have been the first inhabitants of Malaya. They roam the forests in little hordes, like monkeys; the man, or rather the male, carries off the female and couples with her in the thickets. The family passes the night under a large tree; the children are suspended from the branches in a sort of net, and a great fire is lighted at the foot of the tree to keep off the wild beasts. As soon as the children are capable of taking care of themselves, the parents turn them adrift as animals do.[1]

It is doubtless thus, after the manner of the great monkeys, that primitive human societies have been formed. With the chimpanzees these hordes can never become very large, for the male progenitor will not endure rivals, and drives away the young males as long as he is the strongest. The first men were surely more sociable, because of their human nature. The young males of the human horde were able to remain, in greater or less number, within the association, but the jealousy of the progenitor-in-chief, the father of the family, must often have obliged them to

[1] Lubbock, *Orig. Civil.*, p. 9.

procure one or several females by capturing them from neighbouring or rival hordes; they thus became more or less exogamous; and, in their embryo societies, marriage or rather sexual union, ended by being prohibited between brothers and sisters, not because there was the least moral scruple about incest, but because, within the limit of the horde, the young women were claimed by the most robust males, who would not yield them up. We know that this is still the case in the Australian tribes.[1]

In this gross social state it is necessarily the mother who is the centre of the family, just as she is in the families of mammifers; it is, therefore, quite natural that the children should bear her name and not that of their father, which for that matter, is not always easy to designate. When once the custom of exogamy was well established, what was at first a necessity ended by becoming an obligation and men were forbidden to unite themselves with women of the group to which they belonged, and which bore the same name as their own. Such is still the general rule in Australia.[2] But in Australia this group is often only a sub-tribe, a *gens* or clan; for the hordes, becoming too numerous, are subdivided into factions or large families who unite together for common defence or vengeance. The children of each group belong sometimes to the clan of the mother, and there is then no legal parenthood between them and their father;[3] also, in case of war, the son must join the maternal tribe.[4] But this is not a universal rule, and in many tribes the children now belong to the paternal clan.[5]

These are general cases, common to the greater part of the Australian tribes, but not to all. There are some who have organised their marriage and their family into classes thus regulating, in a certain measure, the primitive confusion, and establishing by this very regulation a sort of

[1] Lang, *Aborigines of Australia*.—Eyre, *Discoveries in Central Australia*, vol. ii. p. 385.

[2] *Grey's Journal*, vol. ii. ch. ii.

[3] Tylor, *Researches in Early History of Mankind*, vol. i. ch. ix.

[4] Giraud-Teulon, père, *Origine de la Famille*, p. 44.

[5] *Folklore, etc., of the Australian Aborigines* (Adelaide, 1879), pp. 28, 50, 57, 58, 65, 67, 87, 89, 92, 93.—Fison and Howitt, *Kamilaroi and Kurnai*, 215.

limited promiscuity. The word "classes," employed by travellers who have made us acquainted with these curious customs, is improper, for neither social classes nor castes exist in Australia. These so-called classes are simply sub-tribes or clans, analogous to the Roman *gens*.

In certain of these tribes a sort of categorical promiscuity is kept up. Thus, among the tribes of Mount Gambier, of the Darling River, and of Queensland, each tribe is divided into two sub-tribes, and within each of these clans all the men are reputed brothers, and all the women are sisters, and all marriage between these brothers and these sisters is strictly forbidden.[1] This is a primordial law; the violation of it is an act of the deepest guilt, which not only stains the individual, but the group to which he belongs; it is more than incest, and the Australians, who have a very lively sentiment of duty, feel intense horror of such an act. But if every man is brother to all the women in his clan, on the other hand he is husband to all the women of the other clan of his tribe. Consequently, all the men of one group are called husbands by all the women of the other, and inversely. Marriage with these Australians is not therefore an individual act, as with us; it is a social condition, resulting from the fact of birth.[2] However, the actual communal union is not obligatory in the least. A man or woman may stop at the nominal or reputed marriage; they may merely call each other husband and wife; but in principle, the right is admitted, and the men sometimes offer temporary wives of their own class to strangers who visit them.[3] Thus in the tribe of the Kamilaroi, near Sydney, every man of the Kubi clan has the right to call "my wife" every person of feminine sex belonging to the Ipai clan, and to treat her as such. There is no need of proposals, or of contract, or of ceremony; a man is a husband by right of birth, but the intimate union does not imply association by couples; the woman passes from one to the other, or even from several to several others. On the other hand, within the limit of the clan, all the men and all the women call each other brothers and sisters, and are bound to respect each other. In uniting

[1] Fison and Howitt, *Kamilaroi and Kurnai*, 50.
[2] *Id.*, *ibid.* [3] *Id.*, *ibid.*

with the men of the other sub-tribe having conjugal right over them, the women do not on that account cease to reside in their own clan, the sub-tribe of their "brothers."

Marriage within this sub-tribe is the abomination of desolation, the sin for which there is no forgiveness. Whoever commits it is outlawed from society, driven from the tribe, tracked through the woods like game, and put to death. He has dishonoured the association, and the children who are born of these social incests are exterminated.[1] Thus, all real consanguinity has been set aside, and a fictitious fraternity created between all the members of the same clan, similar to paternity by adoption. Is this artificial parenthood the result of practical exogamy, or has it, on the contrary, produced it? We cannot tell; but wherever it exists, its rule is absolutely inflexible. If, for example, as often happens in Australia, the important men, the chiefs, the sorcerers, or the strong adults, seize a certain number of women for their personal use, they only do it in conformity to the law of exogamy between the sub-tribes. If one of the women thus confiscated runs away and is re-taken, she is not restored to the man who had usurped possession of her, but belongs by right to those who have caught her.

Moreover, certain neighbouring tribes are subdivided into sub-tribes, or clans of the same name; they have probably sprung one from the other at some former period. If it happens that a man steals a woman from one of these tribes, the captured woman is immediately incorporated into the corresponding clan of the ravisher's tribe, and she becomes the "sister" of all the women of this clan, to which will also belong her children. As for the ravisher, he is always a member of another *gens*, or clan, of the same tribe. If the tribes of the captured woman and of her captor are not symmetrical—that is to say, have not corresponding clans—then the woman may become the founder of a new clan belonging to the tribe of the man who has carried her off.[2]

If a woman is captured by a party of warriors, and not

[1] Fison and Howitt, *Kamilaroi and Kurnai*, pp. 65, 66.

[2] Fison and Howitt, quoted by Giraud-Teulon, fils, in *Origines du Mariage et de la Famille*, p. 120.

by one individual only, the first care of the captors is to inflict on her a collective violation, on the condition, however, that none of them belong to a clan homonymous with that of the ravished woman; if any one of their party is an exception to this, he must abstain from so doing.[1]

The sign of the fictitious fraternity of the Kamilaroi, and of all the Australian tribes organised in the same manner, is a common emblem, the *totem*. All the men bearing the same *totem* are united by the bond of a conventional fraternity, which is none the less strict for that reason. The *totem* has evidently been invented in a primitive epoch, when the different degrees of consanguinity were not easily distinguished, and were therefore replaced by an artificial union far wider than the limits of the natural family.

Whenever a single individual wished to escape from this tribal marriage, he was obliged to resort to various artifices. One of these transitional processes has remained in use in the Kurnai tribe, in Gippsland, Victoria.

The terms still in use with them to designate kinship recall the former existence of a fraternal marriage; but in practice they have none the less adopted individual marriage. The manner in which these individual marriages are contracted probably indicates what must have happened in primitive times, when some innovators attempted to escape from tribal marriage by carrying off the women they preferred, and were only re-admitted to their tribe after having obtained pardon and the ratification of their audacious enterprise. Among the Kurnai every marriage must be made by the capture of one of the women of their tribe, even when this rape has been preceded by a friendly exchange of sisters, which is usual enough. This simulated rape is punished by a simulation of vengeance. The fugitives are pursued; they are even ill-treated, but short of being actually killed. Their punishment is simply an act of obedience to ancestral customs. When all is concluded, and the fugitive couple reinstated among their people, the woman belongs to the man who has carried her off; he is no longer obliged to offer her to the visitors of his clan, as old Australian hospitality

[1] Fison and Howitt, quoted by Giraud-Teulon, fils, in *Origines du Mariage et de la Famille*, pp. 86-88.

required;[1] she belongs to him alone. Sometimes the ravisher legalises his right of sole proprietor by first giving notice to his friends, and offering them the use of his wife, after which he can keep her to himself.[2]

In proportion as tribal marriage was being transformed, owing to the breaches made in it by individual instinct, the consanguineous family was gradually arising in place of the collective and fictitious family. It seems most likely that uterine filiation, or the maternal family, was first established. The Australian Motas still have filiation by the woman's side, and among them the property of the uncle is transmitted to the uterine nephew; but already the paternal family is beginning to be constituted, and the relatives on the male side seek to redeem the heritage by means of an indemnity.[3] With other and more advanced Australian tribes, fanatical evolution is more complete; masculine filiation is already instituted, and agnation adopted; there is even a worship of the manes of male ancestors.[4] The Melanesians of Australia and Tasmania present, therefore, a tolerably complete picture of the evolution of marriage and of the family, from the primitive rape, followed by a tribal period in which marriage is merely a limited and regulated promiscuity, and in which real consanguinity is replaced by a fictitious fraternity, down to the *régime* of individual marriage and masculine filiation, previously passing through uterine filiation, or the maternal family. We shall find traces of this evolution among other races, but nowhere is the lower stage so well preserved as in Australia.

III. *The Family in America.*

Nothing similar to the gross tribal marriage of the Australian Kamilaroi is to be found among the American Indians, whose familial organisation, however, strikingly recalls that of the Melanesian clans, though already in a higher degree of evolution.

[1] Fison and Howitt, *loc. cit.*, p. 200.
[2] *Id.*, *ibid.*
[3] Giraud-Teulon, *loc. cit.*, p. 447.
[4] Giraud-Teulon, fils, *loc. cit.*, p. 446.

The tribes of the Redskins were, and are still, divided into phratries, which are again subdivided into clans. Now these clans are composed of real or fictitious relatives. In each phratry the corresponding clans have the same *totem*, and it is strictly forbidden to marry a woman belonging to the group bearing the same *totem*. This organisation is very ancient; it existed in Mexico at the time of the Spanish conquest, and the French found it in the eighteenth century among the Redskins of Canada. The Hurons, Charlevoix tells us, were divided into three clans: the wolf, the tortoise, and the bear.[1] The *totem*, or emblem of the clan, served to sign treaties.[2] This is a general fact, and the subdivision of the tribe into clans or *gentes* is observed among the Tinneh Indians, the Choctaws, the Iroquois, the Omahas, the Indians of Columbia, etc., etc. Each clan forms one large family, inhabiting sometimes a common house, as do still the Indians of the Pueblos, as did the Iroquois at the time they were first discovered, and as did the Mexicans at the epoch of the Spanish conquest. The "long houses" of the Iroquois were buildings a hundred feet in length. A large corridor, closed at the two extremities by a door, traversed its entire length. To the right and left of this central corridor, and opening on it, were stalls, or niches, each serving as the apartment of a family. The number of these families varied from five to twenty.[3]

The members of a Redskin clan had common rights and duties. When a man died, any personal objects he might possess were deposited in his tomb, for they might be useful to him in the future life. The remaining property of the deceased belonged principally to the clan, or the *gentiles*; his near relatives, however, were considered first. Thus, among the Iroquois, the widow, the children, and the maternal uncles claimed the largest part, while a very small portion of the heritage came to the brothers. The general principle was that the property should remain in the clan. In the present day the old customs are modified, and with

[1] *Hist. et descrip. générale de la Nouvelle-France*, etc.
[2] *Ibid.* t. v. p. 393.
[3] L. Morgan, *Ancient Societies*, p. 70.—Lahontan, *Voy.*, etc., t. ii. pp. 104, 183.

the Iroquois, the Creeks, the Cherokees, the Choctaws, the Crows, etc., there is no longer any gentile heritage; all passes to the children.[1]

The political organisation was, or still is, republican. The members of a Redskin clan have the right to elect and to depose the chief of the community, and the liberty to adopt strangers. They are united by a strict solidarity, and have a mutual duty to help and to avenge each other. And lastly they have their council and their sepulture in common.[2]

But the most rigorous obligation for the members of the same clan is that of not marrying in it. To take a wife having the same *totem* is considered as a most culpable act; it is a crime sometimes punished by death.[3] The Iroquois law regulating marriages recalls, in a certain degree, that which takes place among the Kamilaroi of Australia. Thus an Iroquois of the Seneca tribe and of the Wolf clan must not marry a woman belonging, not only to his own clan, but to all the clans of the same name in the five other tribes of the Iroquois. On the other hand, he is perfectly free to marry in any of the seven other clans of his own Seneca tribe.[4] In short, an Iroquois may be endogamous in the tribe, but he must be exogamous from the point of view of the clan or clans.

The motive of the prohibition of marriage within the clan is always the supposed relationship. Thus the law of the Tinneh Indians forbids a man of the Chitsang clan to marry a woman of the same clan because that woman is his sister.[5]

The children always belong to the *gens*, or clan, of their mother.

These rules vary more or less from tribe to tribe, except the prohibition of marriage within the clan, which is strict and general. Thus, among the Omahas, a man may take a wife in another tribe, even if this woman belongs to a clan of the same name as his own; but he cannot marry within his own clan, because all the women of this clan are

[1] L. Morgan, *Ancient Societies*, pp. 528-531.
[2] *Id.*, *ibid.* pp. 70, 71.
[3] *Id.*, *ibid.* p. 97.
[4] L. Morgan, *loc. cit.* p. 513.
[5] *Notes on the Tinneh*, Hardisty, in *Smithsonian Reports*, 1866.

reputed to be his relations—sisters, aunts, nieces, daughters, etc. We shall see presently to what women these various appellations, which among the Redskins have a much wider sense than with us, are applied.[1]

These customs, or very analogous ones, were in force with a great number of American tribes. At the present day the Indians of the Moqui Pueblos still live in their common habitations, as at the time of the conquest, and they are divided into nine clans.[2]

In the Pueblo of Orayba the relatives of a married woman who dies take her property and her children, only leaving to the husband his horse, his clothes, and his weapons;[3] for by marrying the woman does not cease to belong to her original clan. Among the Pipiles of Salvador a genealogical tree with seven branches was painted on the wall of the common house, and save in the case of a great service rendered to the clan, a man could not intermarry with any persons related up to the degree indicated by the genealogical tree.[4] In reality, this people had got beyond familial confusion, or of purely *totemic* relationship, but the principle regulating conjugal unions had not yet changed. In Yucatan marriage between persons of the same name—that is to say, of the same clan—entailed the penalty of being considered as a renegade.[5] The savage Abipones were also exogamous, according to Dobritzhoffer. This rule naturally gives way in proportion as civilisation develops. The Nahuas still prohibited marriage between consanguineous relatives; but at Nicaragua the prohibition only applied to relatives of the first degree.[6]

We have previously seen, in describing the family amongst the animals, that it is habitually maternal; it is around the female that the young group themselves. As for the male, if he does not abandon the family, he exercises no other function but that of chief of the band. It must surely have been thus that the first human hordes were formed, and when man became intelligent enough to take note of filiation, it was uterine parenthood alone that he

[1] *Omaha Sociology*, p. 255, in *Smithsonian Reports*, 1885.
[2] L. Morgan, *Ancient Societies*, p. 178. [3] *Id.*, *ibid.* p. 535.
[4] Bancroft, *Native Races*, etc., vol. ii. p. 665.
[5] *Id.*, *ibid.* vol. ii. p. 665. [6] *Id.*, *ibid.* vol. ii. pp. 251, 666.

considered worthy of account. The primitive family was maternal, for in the confusion of sexual unions paternal filiation would have been difficult to determine; no importance was therefore attached to it in early times, and the father was not looked upon as the parent of his children.

We shall find the maternal family, or at least traces of it, in many countries, but it is especially among the Indians of North America that it has been the best preserved and the best studied. In the eighteenth century it was already remarked by Charlevoix, Lafitau, and Lahontan,[1] that the Redskins always bear the name of their mother, and that it is through a man's sister that his name is transmitted to descendants. The American clan is based on uterine filiation; it comprehends all the descendants, in the female line of an ancestral mother, real or hypothetical. It is therefore exactly the contrary of the agnatic *gens* of the Greco-Roman world.

The Redskin clan is composed of all the families reputed to be related to each other; it is a little republic having the right to the service of all the women for the cultivation of the soil, and of all the men for the chase, war, and *vendettas*. It is to the woman that the wigwam or family dwelling belongs, as well as all the objects possessed by the family, and the whole is transmitted by heritage, not to the son, but to the eldest daughter or to the nearest maternal relative,[2] sometimes to the brother of the deceased woman. Nevertheless, this heritage must be understood in the sense of a simple usufruct. It was the maternal clan in reality who was the proprietor, and none of the members of the community could seriously alienate the social property. The husband alone, in most of the tribes, had no right over the goods or over the children; they all remained in the maternal clan;[3] it was maternal filiation which regulated the name, the rank, and the hereditary rights in the clan.[4] A sort of communism reigned there. All the provisions, whether they were the produce of the soil, of the chase, or of fishing, were placed in public storehouses, under the control of an aged matron; and if it ever happened that a family had

[1] *Voyages*, etc., t. ii. p. 154.
[2] A. Giraud-Teulon, fils, *Orig. du Mariage*, etc., p. 191.
[3] *Id.*, *ibid.* p. 186. [4] *Id.*, *ibid.* p. 177.

exhausted its provisions, another family immediately came to its aid.[1]

But maternal filiation was, or is, in force even where the clans did not live in common houses, as we find it still among the Mohicans, the Delawares, the Narrangasetts, the Pequots, the Wyandots, the Missouris, the Minnitaris, the Crows, the Creeks, the Chickasaws, the Cherokees, etc.

With the Iroquois and the Hurons, the father, says Charlevoix, was almost a stranger to his children. "Among the Hurons," continues the same observer, "dignity and succession are inherited through the women. It is the son of the sister who succeeds, and in default of him the next relative in the female line."[2]

"With these peoples," says Lafitau, "marriages are arranged in such a way that the husband and wife do not leave their own family to establish a family and a cabin independently. Each one remains at home, and the children born of these marriages belong to the families that have produced them, and are counted as members of the family and cabin of the mother, and not at all as belonging to those of the father. The possessions of the husband do not go to his wife's cabin, to which he is himself a stranger; and in his wife's cabin the daughters are heirs in preference to the males, who have nothing there but mere subsistence."[3]

"Besides this," continues Lafitau, "the wife's cabin has rights over the product of the husband's hunting; all of this must be contributed during the first year, and a half only afterwards."[4]

The mothers negotiated the marriages, and naturally did so without consulting the interested parties. When the affair was once settled, presents had to be made to the gentile relatives of the bride. It was the care of these relatives, in case of conjugal dissensions between the married pair, to attempt a reconciliation and to prevent a divorce.[5] At the present time, among the Santi-Dakotas,

[1] A. Giraud-Teulon, *Orig. du Mariage*, p. 185.
[2] Charlevoix, *Hist. de la Nouvelle France*, t. v. p. 395.
[3] Lafitau, *Mœurs des Sauvages Américains*, t. 1er. p. 69, etc.
[4] *Id.*, *ibid.* t. ii. pp. 252, 268.
[5] L. Morgan, *Ancient Societies*, p. 454.

if a wife is ill-treated by her husband, the mother-in-law has the right to take back her daughter; the husband's power must yield to hers.[1] Does the institution of filiation by women, or the maternal family, entail, as some have pretended, the *régime* of the matriarchate? North America being *par excellence* the country of exogamy and of the maternal family, the theorists of the primitive matriarchate have often drawn arguments from thence which it is interesting to weigh.

At the epoch during which the Seneca-Iroquois still lived in their "long houses," it seems that the influence of the women in the community was very great. The missionary, Arthur Wright, wrote in 1873:—"It was the custom for the women to govern the house. The provisions were in common; but woe to the unfortunate husband or lover too idle or clumsy to bring home from the chase a sufficient booty. Whatever the number of his children or the value of the goods he possessed in the house, he might be ordered at any moment to take up his blanket and pack off." After that, unless he obtained the intercession of some aunt or grandmother, he was forced to obey, return to his own clan, or contract an alliance elsewhere. "The women were the chief power in the clans, and they did not hesitate, when necessary, to depose a chief, and make him re-enter the ranks of simple warriors. The election of the chiefs always depended on them."[2]

Among the Wyandots there is in every clan a council composed of four women elected by the female chiefs of the family. These four women choose a chief of the clan from among the men; then the *totem* of the clan is painted on the face of this chief. The council of the tribe is formed by an assemblage of the clan councils; four-fifths of it, therefore, consist of women. The sachem, or chief of the tribe, is chosen by the chiefs of the clans.[3]

Charlevoix relates that in 1721 the Natchez Indians were governed by a very despotic chief, the Sun, who was

[1] J. Owen Dorsey, *Omaha Sociology*, p. 261, in *Smithsonian Reports*, 1885.
[2] L. Morgan, *Ancient Societies*, p. 455.
[3] J. W. Powell, *Wyandot Government*, in *Smithsonian Reports*, 1881.

succeeded by the son of his nearest of kin. This was the female chief, and she had, like the Sun, the power of life and death over the people. At the death of the female chief in 1721, her husband, not belonging to the family of the Sun, was strangled by her son, according to custom, and that without prejudice to other human sacrifices.[1] The ancient Spanish chroniclers also speak of the submission of the husbands to their wives in Nicaragua; they seem to have been treated as servants (Herrera, Audogoya).

Lastly, among the Redskins the matrons had the right to baptise the children—that is to say, to make them enter either the maternal or the paternal clan.[2]

These facts are curious. They prove, indeed, that with the Redskins the women enjoyed a notable influence, especially in ancient times. With the Seneca-Iroquois they could expel the incapable hunter; but this was evidently by their title of housekeepers of the clan. Among the Wyandots, they figured numerously in the council; but nevertheless, the supreme chief was a man. As for the woman-chief of the Natchez Indians, we find an equivalent of it in certain little despotic monarchies of black Africa. Among the Ashantees, and in Darfour, etc., the princesses dominate their husbands or their lovers by the prestige of royalty. Nothing is more natural than that a plebeian husband should be strangled on the tomb of his wife with other human victims, when we consider the prevailing ideas of future life and the absolute servility of the subject in primitive monarchical states. In fact, the power of women among the Redskins was more apparent than real. Charlevoix himself declares that their domination is fictitious,[3] "that they are, in domestic life, the slaves of their husband," that the men hold them in profound contempt, and that, amongst themselves, the epithet of "woman" is a cutting insult.

Important affairs were kept secret from them;[4] polygamy was habitually permitted to the men, but polyandry was nearly always prohibited to the women. In fact, among the Redskins the woman is the slave of her husband, and

[1] Charlevoix, *loc. cit.*, t. vi. pp. 177-179.
[2] L. Morgan, *Ancient Societies*, p. 169.
[3] Charlevoix, t. v. pp. 397-421. [4] *Id.*, *ibid.*, t. vi. p. 172.

the latter thinks so slightly of her, that frequently the men live conjugally for years without communicating with their wives otherwise than by signs, as owing to exogamous marriage they speak different languages.[1] The authority that the husbands concede to their wives in certain tribes is entirely domestic; it is a household royalty.

Thus, with the Selisches, the cabins containing the provisions are confided to the women, and the husband himself can take nothing without their permission.[2] The husband or the son commands in the woods and on the prairie; but in the interior of the wigwam it is the most aged woman or the mother who governs and assigns to each one his place.[3]

These customs and the marriages by servitude have led several observers to attribute to the women a considerable authority which they do not really possess. In fact, they are nearly always purchased, and are very submissive. The maternal family and the matriarchate are very different things. The first is common; the second is very rare, if indeed it has ever existed. The Australians, who have the maternal family, none the less treat their wives as we should not dare to treat our domestic animals. And again, in order that filiation by the female side should give women a notable social influence, it is necessary that society should be very civilised, that there should be exchangeable values, and that women should become rich by inheritance. Then they are in a position to exercise the power that fortune gives in every country. But among the Redskins private property as yet hardly existed; the clans preserved the prior claim; personal property had not a great value; there were no domestic animals; it was difficult for any individual, man or woman, to become rich. Lastly, the chief occupations, those which were reputed noble, those also on which the existence of the tribes depended, were the chase and war; now the women took no part in these. They have not therefore been able to exercise a dominant influence, even in the tribes where they were treated with relative mildness. Among the Redskins in general, all the painful

[1] Lubbock, *Orig. Civil.*, p. 152.
[2] Doménech, *Voy. pitt. dans les déserts du Nouveau-Monde*, p. 508.
[3] *Ibid.* p. 543.

labours fall to the women, except the fabrication of arms. It is she who takes care of the home, who cooks, prepares the skins and the furs, gathers the wild rice, digs, sows and reaps the maize and the vegetables, dries the meat and the roots for the winter-provision, makes the clothes and the necklaces, etc. She even works at the construction of bark canoes, but in this, man comes to her aid. With that exception, he confines himself to hunting and fighting, smoking, eating, drinking, and sleeping. In his eyes work is a disgrace.[1] Such are the customs of living Redskins. Were they different last century? Not at all, if we may believe the authorities even who are invoked by the modern theorists of the American matriarchate. Charlevoix tells us that the Huron husbands prostituted their daughters and their wives for money,[2] that the Sioux cut off the noses of their unfaithful wives and scalped them,[3] and that all the hard work was left to the women, the men glorying in their idleness.[4] Lafitau enumerates, with still greater detail, the many and painful occupations of the women,[5] and he narrates the story of a husband who burnt his adulterous wife at a slow fire.[6] It is not then amongst the Redskins that we can find the matriarchate. Their familial system is none the less very curious, especially if we compare it with that of the Australians.

The familial clan of the Australians and of the Redskins enables us to retrace the origin of the ideas of kinship. Nothing similar seems to exist among the animals. In the best endowed species, the parents, especially the females, have an instinctive love of their young, but only as long as they are young. After that period they no longer recognise them, and often even drive them away.

Man, who has certainly begun his existence in the same way as the animals, has early attained, not to ideas of precise filiation, but to a vague idea of consanguinity

[1] Doménech, *loc. cit.*, pp. 338, 425, 467.
[2] Charlevoix, *Journal*, etc., t. vi. p. 39.
[3] *Id.*, *ibid.*, t. v. p. 271.
[4] *Id.*, *ibid.*, t. vi. p. 44.
[5] *Mœurs des Sauvages*, ii. 266; iii. 56, 69, 70, 72, 76, 92, 97, 98, 120.
[6] *Ibid.*, t. ii. pp. 274, 275.

between all the members of his horde. In these little primitive groups, no distinction has at first been made between real and fictitious kinship. All the men of the same clan have been brothers, all the women have been sisters, and by the help of an inveterate habit of exogamy, a gross morality has been formed, which condemned social incest. But as the life of the clan was, before all things, communal, while marriages within the clan were prohibited, it was decided that the clans of the same name—that is, those who had sprung one from the other—should be united by a sort of social marriage, all the women of the one being common to all the men of the other. Then, in the course of time, the instinct of individual appropriation having undermined the primitive community, the women were distributed amongst the men; they formed families which were often singular ones, and of which I shall have to speak again. There was no longer promiscuity from clan to clan, but the wife was to be taken from an allied clan. The first filiation which was established was surely maternal filiation; primitive conjugal confusion would not permit of any other. But at length, when the family became more or less instituted, the relations could be classified, and the degrees of consanguinity distinguished.

It was not without difficulty that man succeeded so far. A long period of time was required to disentangle the skein of family relationships; and fictitious kinship continued to be confounded with real kinship for many ages. Change came only by a slow evolution, which we will now proceed to study.

CHAPTER XVII.

THE FAMILIAL CLAN AND ITS EVOLUTION.

I. *The Clan among the Redskins.*—Primitive form of the Tribe—The Clan.

II. *The Family among the Redskins.*—Classes of relations among the Omahas—The family among the Iroquois-Senecas, the Omahas, etc.—Primitive familial stage of the Redskins—Adoption and its miracles—Rise and evolution of masculine filiation in America—Exogamy and endogamy.

III. *The Family in Polynesia.*—Maternal filiation—Rarity of exogamy—Hawaian marriage—The terms of kinship—The father humbling himself to the male child—Adoption in Polynesia.

IV. *The Family among the Mongols.*—Familial exogamy among the Mongols—Kinship by classes—Evolution of kinship by classes.

V. *The Clan and the Family.*—The European family has not been the "cellule" of societies—The primitive clan.

I. *The Clan among the Redskins.*

In the preceding chapter we have seen the nature of Redskin exogamy, on which it has sometimes been attempted to construct theories of conjugal evolution applicable to the entire human race. As a matter of fact, the North American Indians marry within their tribe; they are therefore endogamous as regards the tribe, but they do not take their wives from their own clan, and consequently they are exogamous as regards this clan. But the clan being composed of real or supposed blood-relations, the exogamy of the Redskins is actually nothing more than our own prohibition, very much extended, of marriages within certain degrees of kinship.

There is really nothing here which resembles marriage by capture, so often classed with exogamy; but the latter may very easily co-exist with the former, and may even be the general rule in more savage tribes. It prevailed, we are told, among the Caribs[1] to such a degree that the wives did not speak the same language as their husbands.

How was the American tribe originally formed? Either consanguineous hordes have ranged themselves side by side, or, which is more probable, a horde, becoming too numerous, has swarmed. Analogous groups, proceeding from it, have formed large families, remaining all the while attached to the original stock, but constituting, nevertheless, distinct communities, confederated with each other and with the primitive clan, which at length became indistinguishable from the others. The whole of these clans taken together represent a tribe. If the clans are too numerous, they group themselves in twos, or threes, etc., within the bosom of the tribe, and thus form what in primitive Greece were called *phratries*, the bond between them being a lesser degree of kinship. At first, marriage was prohibited within the phratry, and afterwards exogamy was restricted to the clans. The clans composing the phratry had festivals in common, and considered themselves bound to aid each other in revenging wrongs.[2] The clan, or *gens*, is a group of persons united by a closer consanguinity, but in the female line. The children of the women of the clan remain in the clan of their mother. "The woman bears the clan," say the Wyandot Indians,[3] just as our ancestors said, "The womb dyes the child." Each clan has its *totem* (a tortoise, bear, eland, or fox, etc.). In the "long houses" of the Iroquois, or in the Pueblos, the members of each clan even had a common habitation, in which each family had its own cell; but the members of this cell-family belonged to different clans, as the husband was not of the same clan as his wife, and sometimes did not inhabit the same dwelling. We have heard it said many times that "the family is the social cellule." Now this is evidently false in regard to the American tribe, and to all

[1] MacLennan, *Primitive Marriage*, p. 71.
[2] A. Giraud-Teulon, *loc. cit.*, p. 170-172.
[3] Powell, *Reports of Smithsonian Institution*, 1881.

tribes that are organised on the same plan. In them it is the clan which is the social unit, or cellule, to keep to the metaphor favoured by H. Spencer, and it is feminine filiation which determines the kinship. What is this kinship in the female line in its details? That is what we must now proceed to inquire.

II. *The Family among the Redskins.*

The manner in which the different degrees of kinship are understood and named varies somewhat among the diverse Redskin tribes; but, in general, the similarity is very great, and great also is the confusion between real consanguinity and fictitious kinship. Among the Omahas, for example, five classes of kinship are recognised—1st, the *nikie* kinship, arising from a very distant common ancestor; 2nd, the clan kinship; thus the families whose tents adjoin each other when the tribe is assembled, are of this kinship; 3rd, kinship by the calumet dance—that is to say, by adoption; 4th, kinship by marriage, including the husband, wife, son, and daughter's husband; 5th, kinship of blood-relation, including the clans of the mother, grandmother, and father.[1]

The Omahas admit, therefore, entire groups of so-called kinsfolk quite unknown in our individualist societies; and moreover, the adopted kinsmen are held exactly on the same footing as the others.

If we confine ourselves to real kinship, we shall see that it is understood in a very wide manner. I will simply give, as a detailed example, a description of the family among the Iroquois Senecas and the Omahas. With the Iroquois Senecas, the direct line, both ascending and descending, is very short. It does not go farther than grandfather and grandmother, and grandson and grand-daughter. The more distant ancestors and descendants are all comprised without distinction in the same categories; they form groups of grandfathers or grandsons. In a collateral line, they proceed by groups, in the same manner. Thus, *for a*

[1] Owen Dorsey, *Omaha Sociology*, p. 252, in *Reports of Smithsonian Institution*, 1885.

woman, the sons and daughters of a sister are reckoned as her own sons and daughters, and their children are her grandchildren. The collateral kinship is then confounded, at least in terminology, with kinship in a direct line. On the contrary, the sons and daughters of a woman's brother are only her nephews and nieces. How can we explain this familial confusion on one side, and this distinction on the other? It may probably be attributed to the habit of the Redskins to marry a lot of sisters at the same time. A woman counts her sister's children as her own, because the husband of that sister, whom we should call her brother-in-law, is virtually her husband also. Inversely, *for a man*, his brother's children, or his fraternal nieces and nephews, are reckoned as his own children; their children are his grandsons or grand-daughters, whilst the children and grandchildren of his sister are only his nephews and nieces.[1] Following our previous line of reasoning, we are led to suppose that these denominations of kinship go back to a distant epoch, when brothers had their wives in common, but abstained from marrying their own sisters. This supposition is confirmed by the examination of the collateral ascending kinship. Thus, either in the case of a man or woman, the father's brother, or the paternal uncle, is reckoned as the father, and his sons and daughters are reckoned as brothers and sisters.

The sisters of the father, or of any person bearing the title of father, are called aunts. The children of these aunts are cousins. For a man, the kinship of uncle is restricted to the brothers of the mother, and the children of these uncles are cousins. The mother's sister, or the maternal aunt, is counted as a mother; her children are not nephews and nieces, but sons and daughters. All sisters, real or fictitious, are mutually mothers of all their children. The children of a man's brothers are not his nephews and nieces, but his sons and daughters; his sisters' children are his nephews and nieces,[2] probably because these names have been given at an epoch when the brothers married groups of sisters in common, but not their own sisters.

[1] Lewis Morgan, *Ancient Societies*, p. 436.
[2] *Id.*, *ibid.* p. 438.

The Omaha Redskins distinguish the degrees of kinship almost in the same way as the Iroquois Senecas. For them also the most distant ascendants are all grandfathers or grandmothers. They class all their relations in groups, formed of individuals virtually brought together by similar degrees of consanguinity or alliance. Whole categories of individuals, more or less numerous, are called brothers or fathers of a man or woman; all those whom the father of a person calls brothers are fathers to that person; all those whom the mother of a woman calls husbands are also fathers to that woman. The name "mother" is given to all the women reputed as sisters to the mother, to the aunts or nieces of the mother, and also to the virtual wives of the father.

A man has virtually for wives all the wives of his brothers, and also their widows, on account of the levirate.

If a man has a brother-in-law who is at the same time the husband of a paternal aunt, the sister of that man is the grand-daughter of the brother-in-law.

A man becomes your brother-in-law if he is merely the husband of a paternal aunt, because he can marry your sister.

The husband of a daughter, of a niece, or of a grand-daughter, is a son-in-law.[1]

All the sons and all the daughters of persons reputed as fathers and mothers call each other brothers and sisters. All the wives, real or virtual, of the grandfather are called grandmothers; so are also all the mothers or grandmothers of the fathers and mothers, and all the women that the fathers and mothers call sisters.

A man counts as his sons all the sons of his brothers or of his virtual wives; but the sisters of these sons are his sisters. A woman calls the sons and daughters of her brothers her nephews and nieces, but the children of her sister are counted as her own children; because their father is virtually her husband.

Among the Omahas a man calls his sister's children nephews and nieces. A person of either sex counts as grandchildren all those who are called the children of his sons, daughters, nephews, and nieces, or reputed as such.

[1] Owen Dorsey, *loc. cit.*, p. 255.

A man counts as uncles all those whom his mothers call "brothers"; and as aunts all the sisters of his father and the wives of his uncles. A man has for brothers-in-law the husbands of his father's sister; for they are the real or virtual husbands of his sisters; a woman has them for virtual husbands.[1]

Various prohibitions of marriage result from these conventional kinships. A man may not marry the women that he calls daughters of a sister, or grand-daughters, etc. A woman may not marry the men who are her sons, the sons of her sister, of her aunt or of her niece, or who are her brothers, etc.[2]

But an Omaha may marry any woman who is not a blood relation, provided that she does not figure among the prohibited affinities.[3]

We have not such detailed information regarding the other Redskin tribes; but we know enough of them to be certain that their systems of kinship are very analogous to those of the Iroquois Senecas and the Omahas. Filiation is everywhere maternal, except in certain tribes in the course of evolution; nearly everywhere also it is a crime to marry a woman having the same *totem*.[4]

Among the Mandans, Pawnies, and Arickaries, a man calls his brother's wife his wife also. Among the Crows a woman calls her husband's brother's wife her "comrade"; but among the Winebagos she calls her "sister." In some tribes a man's wife's sister's husband is called his "brother."[5]

Some very severe and inconvenient rules of decency have resulted from these fictitious kinships, with their prohibitions of marriage.

Thus, among the Omahas, the young girls may only speak to their father, brother, and grandfather. A woman avoids passing before her daughter's husband as much as possible; and, unless under extraordinary circumstances, a woman does not speak directly to the father of her husband. A man never addresses a word to the mother or grandmother of his wife.[6] In the last century, among the Iroquois, a young

[1] Owen Dorsey, *loc. cit.*, pp. 254, 255.
[2] *Id., ibid.* p. 256.
[3] *Id., ibid.* p. 257.
[4] MacLennan, *Primitive Marriage*, p. 97.
[5] L. Morgan, *Ancient Societies*, p. 440.
[6] Owen Dorsey, *loc. cit.*, pp. 262, 263.

man was dishonoured if he stopped to converse in public with a young girl who was certainly within the prohibited degree of kinship.[1] For a young Iroquois girl to call the husband of her aunt by his personal name was considered a grave act, indicating a culpable *liaison*.[2]

From the manner in which the Redskins understand kinship, we may infer two things: first, that they must have passed through a familial stage, in which groups of brothers married groups of sisters and possessed them in common, thus combining polygamy and polyandry, since they attach little value to real consanguinity, and their kinships are very often fictitious; and secondly, that they make no difference between real filiation and adoption, and in this they resemble savages and even barbarians of all countries. Among the Omahas the word used to signify adoption means literally "to take for one's own son."[3] The adopted child is always treated as the first-born, and takes his place; the father who adopts him refuses him nothing, and gives him a share in all his wealth. The real father, on his side, makes presents to the adopted father. And lastly, there is a prohibition of marriage during four years between the two families, on account of the kinship created by the adoption.[4]

Sometimes an entire clan adopts another. Thus the Wolf-Iroquois were adopted by the Falcon-Iroquois, and the effect of this adoption was that the two clans became completely assimilated, the new-comers taking the kinships of the adoptive clan.[5]

The adoption of enemies, taken prisoners after a battle, is still more curious. This adoption has almost miraculous effects; it extinguishes the ferocious hatred which the Redskins always feel for men belonging to rival tribes; more than that, it makes the captive warrior become the husband of the woman whom he has perhaps rendered a widow, or of the daughter whose father he may have killed. The Redskins have, it should be said, very exaggerated ideas on the subject of warlike valour. A combatant must never surrender unless very severely wounded. Every

[1] *Lettres édifiantes*, t. xii. p. 130.
[2] *Ibid.* p. 144.
[3] Owen Dorsey, *loc. cit.*, p. 265.
[4] *Id.*, *ibid.* p. 281.
[5] Morgan, *Ancient Societies*, p. 81.

warrior who is taken prisoner is dishonoured and held as dead by his tribe, and his captors generally torture him to death. However, in the last century, the most ferocious of the Redskins, the Iroquois, sometimes spared a few prisoners to offer them to the wives or daughters whose relations had been killed. The latter had the power either to put them to death, in order that their shades might serve as slaves to their father, brother, or husband, etc., who had fallen, or to pardon them, and even adopt them. In this last case, the enemies of the previous night took a place among the warriors of the clan, and were no longer distinguished from the others.[1]

This system of kinship in the familial clan is curious, because it holds real consanguinity very cheap, unhesitatingly confusing real with fictitious kinship, and thus forming classes of fictitious relations. It seems to prove the existence of an ancient period of promiscuity, during which there was scarcely any thought of determining with precision the degrees of consanguinity of individuals. Naturally, the first form of the family which was more or less vaguely outlined in the confused groups anterior to the familial clans, was the maternal family; but this system of filiation by classes is in no way incompatible with paternal filiation.

Up to the present time kinship in the female line prevails among most of the Redskin tribes. Certain of them, however, are evolving in the direction of masculine filiation, and this movement was already commencing at the close of the last century.[2] The transformation began with the chiefs and more powerful men. Among the Thlinkits of Russian America the great men already give the paternal name to their children; but the poorer people are still in the stage of uterine filiation.[3] Certain tribes have quite recently adopted the system of paternal filiation. It is owing to European influence that this change is operating, and its accomplishment is only a question of time. The Ojibways have only taken two generations to effect the adoption of agnatic filiation.[4] A similar evolution

[1] *Voyages du baron de Lahontan*, etc., t. ii. pp. 203, 204 (1741).
[2] A. Giraud-Teulon, *loc. cit.*, p. 196.
[3] Holmberg, *Skizzen über die Völker des Russichen Amerika*, p. 32.
[4] L. Morgan, *loc. cit.*, pp. 166, 344.

was spontaneously accomplished in the great states of Central America. In Peru maternal filiation was still in general use, but the paternal family was beginning to appear. In the mass of the nation, says Gomara, the heritage was transmitted to nephews and not to sons; but in the family of the Incas direct male descendants alone had the right to avail themselves of their origin, and sons inherited.[1] It seems that in Mexico the familial evolution may have been more advanced, for there it is always the paternal personality which predominates, and it is the father who dictates to the children rules of conduct and moral precepts. The mothers exhort their daughters to be submissive to their husbands, to obey them and strive to please them.

The familial customs which I have just described are general in America; they are not universal as regards exogamy, for Hearne tells us that many Chippeways frequently take to wife their sisters, daughters, and even mothers.[2] We know, on the other hand, that the Peruvian Incas married their sisters, and that throughout the Peruvian empire no one married outside the administrative district.

In some parts of America the diversity is still greater. The Caribs married their relatives, with the exception of sisters,[3] indiscriminately; the Indians of Guiana, on the contrary, practised totemic exogamy, like the Redskins.[4]

The Indians of Guatemala were unacquainted with maternal kinship. They willingly married their sisters, provided they were not children of the same father, and among them the children belonged to the class of the father even when the mother was a slave.[5] Among the Mayas descent was also reckoned in the male line.[6] In various savage tribes of Mexico the women did not inherit. Among the Ityas and in Yucatan the name of the child was formed by combining the names of the father and mother; the mother's name, however, had the precedence.[7]

The monk Thevet relates that the Indians of Brazil

[1] H. Spencer, *Sociology*, vol. ii. p. 340.
[2] *Id.*, *ibid.*, vol. ii. p. 218.
[3] Squier, *States of Central America*, p. 237.
[4] Brett, *Indian Tribes of Guiana*, p. 98.
[5] Bancroft, *loc. cit.*, pp. 664, 665.
[6] L. Morgan, *Ancient Societies*, p. 538.
[7] Bancroft, *loc. cit.*, vol. ii. p. 680.

already pushed the agnatic system, at least in theory, to its most extreme limits; for they affirmed, he says, that in procreation the part of the father is predominant, and that of the mother only secondary.[1] The general conclusion to be drawn from these very dissimilar facts is, that we should abstain from forming any absolute theories on these great sociological questions of marriage and the family, which are still so far from being elucidated.

III. *The Family in Polynesia.*

Filiation by the female line seems to be generally adopted, not only in Polynesia, but in many Melanesian or Micronesian archipelagoes. It has been found in the Fiji Islands, at Tonga and the Carolines,[2] etc. But exogamy, even the exogamy of the clan, after the American fashion, appears rare. It existed at Samoa, but in any case it seems not to have been a general custom.[3]

In New Zealand endogamy predominated, and marriage with a woman of another tribe was even prohibited, unless an important political motive could be given as an excuse.[4] Endogamy was also practised in the Hawaian Islands. In the Mulgrave Islands every marriage required the sanction of an assembly of all the friends and relatives, or rather of the whole clan,[5] for the interest of the community was involved in it.

In the Hawaian Islands there existed a confused kinship by classes, analogous to that of the familial clan among the Redskins, but much more gross. Group-marriage of brothers and sisters prevailed, but generally the brothers did not marry their own sisters. As for the names expressing the degrees of kinship, they were names of classes. The Hawaians had no words to express "father" or "mother." They used the word "*mkûa*," which signifies "parents." To say "father," they added the word "*kana*," which signifies "male": *Mkûa kana*, male

[1] Thevet, *Singularités de la France antarctique*, p. 215.
[2] A. Giraud-Teulon, *loc. cit.*, p. 167.
[3] Hubner, *Six semaines en Polynésie* in *Revue des Deux-Mondes*, 1886.
[4] Yate, *New Zealand*, p. 99.
[5] Paulding, *Hist. Univ. des Voy.*, t. xvi. p. 459.

parent. To say "mother," they used the combination, *Mkûa ouahina*, female parent. There was no expression for "son" or "daughter." They used the word *keiki*, child, or little one, to which they added *kana* or *ouahina*, as before, according as the child was male or female. The language had no terms for "brother" or "sister."[1] The word employed to express "wives" is collective; it applies to the wife's sister as well as to the wife proper, and signifies literally "female"; in the same way, for "husband" they used the word *kana* (male), and applied it also to the husband's brother and sister's husband. All the sisters of a woman were called "the wives of the husband of that woman," even when they were not actually so.[2] The Hawaians had no expressions for "grandfather" or "grandmother." Their word *kapuna* signifies an ancestor of any degree beyond the father and mother (*mkûa*). Neither had they any special denomination for "grandson" or "granddaughter." As brothers and sisters did not generally intermarry, the women called the husband or husbands of their sisters, not "husbands," but "intimate companions" (*punalua*).[3]

It was possible for either the paternal or maternal family to evolve from this confused system of kinship, based at first apparently on the promiscuity of brothers and sisters; but it was the latter which at first arose, and in the time of Cook the rank and dignity of the chiefs were transmitted in the female line.[4] A singular custom noticed by Cook in the Society Isles may perhaps be interpreted in the sense of maternal filiation. They spoke of the transmission of the title and dignity of the chiefs to their first-born, and that even at the moment of birth. As soon as the wife of a chief had given birth to a son, the father was reckoned as deposed, and became a simple regent; he owed homage to his son, and might not remain in his presence without uncovering to the waist.[5] At Tonga maternal filiation was well established; rank was transmitted by the

[1] L. Morgan, *Ancient Societies*, p. 374.
[2] *Id., ibid.* p. 428.—MacLennan, *Primitive Marriage*, p. 375.
[3] L. Morgan, *Ancient Societies*, p. 428.
[4] De Varigny, *Quatorze ans aux îles Sandwich*, p. 14.
[5] Cook (Second Voyage), *Hist. Univ. des Voy.*, t. vii. p. 417.—Moerenhout, *Voy. aux îles*, etc., t. ii. pp. 13, 15.

women, who sometimes even reigned,[1] and the father was not counted as the parent of his child.[2]

Of late years, and manifestly under European influence, the familial system has become modified in Polynesia. At Tonga masculine filiation is being substituted by degrees for feminine filiation.[3] The Maoris of New Zealand have also adopted agnatic filiation, but this new system still jars against ancient usages, which formerly harmonised with the maternal family.

This evolution of the family in Polynesia has probably had for its starting-point a confused promiscuity, and afterwards a system of classification of relations, in which real and fictitious ties were hardly distinguished from each other. With the slight importance attached to real consanguinity might very naturally coexist a great facility to practise adoption. This was abused to such a degree in the Marquesas Islands that it was not uncommon to see aged persons getting themselves adopted by children, and even animals were adopted also. Thus a chief had adopted a dog, to which he had ceremoniously offered ten pigs and some precious ornaments; he had him constantly carried by a *kikino;* and at the banquets of the chiefs, the animal had his appointed place by the side of his adoptive father.[4] There was no distinction generally made between the real and the adoptive parent,[5] and we may hence conclude that the degrees and bonds of kinship were not well distinguished.

IV. *The Family among the Mongols.*

The family of the Polynesians, and more especially of the Hawaians, may well have been, as L. Morgan supposes, the primitive familial type of the American Redskins. It has for its basis a marriage which is at once polyandric and polygynic, between groups of sisters and corresponding

[1] Th. West, *Ten Years in South Central Polynesia*, p. 260.
[2] Mariner, *Voy. to the Friendly Islands*, etc., vol. ii. p. 165.
[3] Erskine, *Islands of the Western Pacific.*
[4] M. Radiguet, *Derniers Sauvages*, p. 181.
[5] Mariner, *Tonga Islands*, vol. ii. p. 98.

groups of brothers, and it results quite naturally in a system of kinship by classes, holding real consanguinity very cheap.

It seems probable that analogous systems of kinship may have been adopted by the greater number of the Asiatic Mongols. This may at least be inferred from the fragmentary but significant accounts with which explorers have supplied us. Among the Yourak Samoyedes, it is forbidden to marry a woman of the same tribe (or rather clan).[1] The people among the Kalmucks are subject to restrictions of the same kind in regard to marriage, which must not take place within three or four degrees of kinship. The great men, however, for whom the laws are more lenient in all countries, sometimes obtain immunity from these inconvenient obligations, but the populace is very much shocked at their laxity. "Great men and dogs," they say, "have no kin." Nevertheless, the sons of the great men, who often also marry their sisters-in-law, always take a wife in another clan.[2] Kinship by classes surely existed among the Mongols only a few centuries ago, for Baber, the founder of the Mongol Empire of Delhi, speaks in his *Memoirs* of one of his lieutenants, named Lenguer Khan, who possessed a whole tribe of maternal uncles, the Djendjouhah, forming a people who lived in the mountains of the Punjaub.[3]

V. *The Evolution of the System of Kinship by Classes.*

These facts, and the inferences they suggest, enable us to solve a difficulty which has embarrassed an eminent sociologist, L. Morgan, to whom we owe our acquaintance with the details of the curious systems of kinship by classes prevailing among the Polynesians and the Redskins.

Morgan, in comparing, term for term, the denominations indicating kinship among the Iroquois-Senecas and the Tamils of India, found them identical as to meaning and number, and he admits, but not without hesitation, that there has been, in both races, a parallel and spontaneous

[1] Latham, *Descriptive Ethnology*, vol. ii. p. 455.
[2] MacLennan, *loc. cit.*, pp. 78, 79.
[3] A. Giraud-Teulon, *Orig. du Mariage*, p. 268.

evolution.[1] This way of explaining ethnic similarities is certainly in general very legitimate. At first sight it often appears trustworthy, and saves the trouble of inventing fantastic migrations. In thousands of cases men of every period, every country, every race have conducted themselves in the same way, had the same ideas, realised the same inventions, adopted the same practices, without knowing each other, without even supposing the existence of the other peoples, and this simply because all of them were part of the great human family. But between the Mongoloids of North America, their cousins of Northern Asia, and the Hawaians, there is probably the bond of a distant and common origin, and, besides this, the nomad Mongols of Asia have more than once penetrated into India. Up to the present time, half-savage Mongol tribes occupy entire regions of the Himalayah. Mongols and Tamils have had wide and long communications with each other during prehistoric ages; it has therefore been possible for them to borrow mutually their system of kinship. There exists quite a chain of peoples, including the Tamils of India, the least civilised Mongols, the American Redskins, and lastly the greater number of the Polynesians, all of whom have formerly adopted, or still practise systems of kinship, based, not on consanguinity, but on a classification more or less fictitious.

The fact is interesting; but it is somewhat bold to attach to it, as Morgan has done, a universal value, and to pretend that all human races have passed through this phase of kinship by classes. Even in the countries where this familial form prevails, it is subject to more than one exception, and it is probable that each great human type, having had its special centre of creation, has evolved physically and psychically in its own manner, sometimes unconsciously imitating the others, but quite as often deviating from them, according as the environment, the difficulties to be overcome, and the necessities of the struggle for existence imposed on it such or such a line of conduct.

[1] L. Morgan, *Conjectural Solution of the Origin of the Classificatory System of Relationship*, in *Proceedings of the American Academy of Arts and Sciences*, 1868.

However it may be, if we condense, by classification, all the notions that have been collected in relation to kinship by classes among the Australians, the Tamils, the primitive Mongols, the Mongoloids of North America and those of Polynesia, we may retrace the evolution of kinship by classes with sufficient appearance of truth.

To begin with, there must have existed hordes, which, though doubtless human, were still very bestial as regards their instincts and intelligence. In these hordes, which were not very numerous, the women being taken possession of by the most robust old males, the young ones were obliged either to quit the group or to remain in it by ravishing one or two women from rival hordes; for exogamy was a necessity. The least advanced of the Australian tribes seem to be still in this primitive stage. At length a little order was put into this disorder by the horde breaking up into clans; it was then decided that all the men and all the women of each clan should be brothers and sisters, and should not intermarry, and that on the other hand, all the men of a clan should be the husbands of all the women of the neighbouring clan, simply by right of birth. The Kamilaroi of Australia may represent the second stage.

In Polynesia the principle is the same, but the idea has become restricted and defined. Groups of real brothers marry groups of women actually sisters, thus forming households at once polyandric and polygamic; but traces of the antique marriage by fictitious groups of brothers and sisters appear again in the terms used to designate the various degrees of kinship. These terms are in reality purely classificatory, and take little account of real consanguinity.

Among the Redskins a new and important restriction has been established. Marriage outside the clan is continued, but not marriage by groups of sisters and brothers. That this was done in primitive times, however, is proved by the familial vocabulary. On the other hand, they have clearly renounced polyandry, and adopted polygamy with not less clearness; but this polygamy is special, and it is generally a group of sisters who marry the polygamous husband.

As for the terms of kinship, they are always general and classificatory. The relations are denominated by groups, and the titles of kinship do not in the least correspond to the ties of blood.

Lastly, among certain nomad Mongols of Asia, the strict prohibition to marry within the clan, and the terms of kinship applying to groups, show that formerly a familial system, analogous to that of the American Redskins, has been in use.

Moreover, this classificatory system is preserved entire in the denominations of kinship by the Tamils of India. But among these last, and also among certain Mongol populations of Thibetan Himalaya, the primitive family, at once polygamic and polyandric, that of the Hawaian islanders, has evolved after its own manner, which it is interesting to notice.

The Polynesian, or rather the Hawaian family, formed essentially by the conjugal union of a group of brothers with a group of sisters, may evidently be restricted in two ways. Either, in the long run, polyandry is found irksome; the men will no longer share their wives, even with brothers, but find polygamy very convenient; in this case the brothers contract isolated marriages, preserving nothing of the old ways but the custom of marrying, when possible, a group of sisters: the Redskins have done and still do this. Or, on the contrary, for one reason or another, and most often on account of the relative scarcity of women, the Hawaian marriage evolves in another direction. The brothers continue to marry in a group; but, instead of marrying simultaneously several sisters, they take only one wife and possess her in common: this time it is in the direction of polyandry that primitive group-marriage has evolved. From the Himalaya to Ceylon we find a long track of ethnic groups who have thus transformed their marriage. The mountaineers of Bhootan, the Naïrs, certain other aboriginal tribes of India, and a part of the population of Ceylon where the Tamils have largely immigrated, are all of them the remains or landmarks of an ancient layer of polyandric population traversing the whole of Hindostan.

All these facts can be classed in a satisfactory manner. Thus united, and placed in a series, they complete and

throw a light on each other, and show us the reason of customs which before appeared inexplicable.

All this evolution is quite admissible, but it is important to restrict it to the populations with which it actually appears to be connected, and not to make of it a universal law, applicable to the whole human race.

VI. *The Clan and the Family.*

Independently of their intrinsic interest, the facts that I have so rapidly enumerated have a very wide bearing. Taken alone, they suffice to destroy altogether the generally accepted ideas as to the origin of human societies. The current doctrine, so often asserted, and manifestly inspired by the Edenic tradition of a terrestrial Paradise and by the memory of the Roman family, insists that human societies have always and everywhere started with the family, and by this word is understood the patriarchal family, essentially composed of the father and the mother, or at most the mothers and the children. From this first family, grouped submissively around one august chief, the father, similar families are supposed to have sprung, which, side by side, constituted tribes, cities, and states. This familial unit, supposed to be primordial, this "cellule" of societies, is held to be particularly respectable; the chief who governs it despotically, the father, has something enchanting about him. At his voice the celestial wrath bursts without mercy on the child bold enough to brave it. Even as late as the last century, the paternal malediction had the effect of a moral thunderbolt; in romances and theatrical plays the writers often had recourse to it in order to effect the catastrophes of their plots.

We are forced in the present day to renounce this traditional notion. We must bid adieu to the primitive patriarchate. The patriarchal, or even simply paternal family, does not date, at least in most cases, from the origin of societies.

The truly primitive stock is no other than the clan, that is, a small consanguine group in which the kinship is still very much confused. It was not in a day that the first

men succeeded in constructing genealogical trees, or even in determining with any precision the degrees of consanguinity. Not only does the father not stand out as a principal personage from the background of the familial clan; he has not even yet any recognised social existence in the little group; in short, the actual physiological father has had in principle no ascertainable relationship with his children, for marriage was anything but monandric.

Within the primitive social unit, the familial clan, every one was consanguine, but in a confused way; the wives had several husbands, and the husbands several wives; the degrees of kinship were not individual, but applied to classes of individuals. At this period of social development it was difficult to distinguish as yet the real from the possible, fictitious consanguinity from real consanguinity. Every one had groups of fathers, mothers, brothers, and sisters: filiation and the true ties of consanguinity in numerous cases could not be discerned.

In these groups of consanguine individuals, these clans with kinship still confused, the first thing that became most habitually differentiated was not the paternal family, for that could scarcely exist, seeing that the father of a child was not easy to designate; it was the maternal family, which we will now proceed to examine.

CHAPTER XVIII.

THE MATERNAL FAMILY.

I. *The Familial Clan and the Family properly so-called.*—The probable evolution of the family—It cannot have been uniform—Why the uterine family has been common.

II. *The Family in Africa.*—The maternal family among the negroes of Africa, in Egypt, in Abyssinia, in Madagascar, among the Arabs and Kabyles.

III. *The Family in Malaya.*

IV. *The Family among the Naïrs of Malabar.*—The female progenitrix, the mother-bee—The uncle among the Naïrs.

V. *The Family among the Aborigines of Bengal.*—Co-existence of the maternal and paternal family; exogamy and endogamy.

VI. *The Couvade.*—It exists in very different countries—The couvade in antiquity—The couvade in contemporary Europe—Signification of the couvade.

VII. *The Primitive Family.*

I. *The Familial Clan and the Family properly so-called.*

At the conclusion of the preceding chapter I have ventured to sketch the probable evolution of the family, or at least that which must have been effected among the greater number of Melanesians, Polynesians, American Redskins, Tamils, and ancient Mongols. The small primitive societies founded by these races seem to have begun, not with the family, in the sense we give to this word, but by groups of consanguine individuals with still very confused filiation. The familial form which first emerged from this primitive clan was most often a matrimonial association between several sisters on the one hand and several brothers on the other. Then, from this

household, at once polygamic and polyandric, sprang sometimes the polyandric family, when several brothers had a single wife in common, and sometimes the polygynic family, when a single man married or bought several women, who might, or might not, be sisters to each other.

But has the familial group evolved in the same manner all over the earth and among all races? Except for the countries previously enumerated, precise and detailed information is wanting, and we are reduced to conjectures which are more or less probable. With rare exceptions, the races which it remains for us to examine have definitely emerged from primitive familial confusion, and they have adopted either maternal or paternal filiation. Have they first passed through the familial clan with classes of fictitious or real relations? We cannot certainly affirm it. The existence of a *totem* and the custom of exogamy seem to bear witness in favour of this hypothesis; but these are insufficient proofs. The *totem* does not necessarily imply consanguinity; and exogamy may be dictated by very diverse reasons, for we often find exogamic tribes living side by side with endogamic tribes.

What is still more general than the clan, is the institution of the maternal family, or uterine filiation; but this familial type is not invariably deduced from a previous familial clan. Among many animal species the maternal family exists without there ever having been either clan or *gens*. As a matter of fact, in humanity as well as in animality, the uterine family establishes itself spontaneously, whenever the male abandons the female and her progeny. This familial type will therefore necessarily appear in every horde where there is no durable pairing of males and females, of men and women. In every ethnic group living in promiscuity, for example, uterine filiation shows itself, and it will be the same under a polyandric *régime*, unless fictitious paternity is established. In short, for the adoption of the paternal family, it is imperative that the wives should be appropriated by a particular man, though it is of no importance whether the marriage be monogamic or polygamic. But this possession of one or more women by one man to the exclusion of all others, presupposes already a complex social condition, which has necessarily been preceded by a

period of gross savagery, when only uterine filiation was possible. Now, it is a rule that ancient customs endure for a long time, and survive the social condition which had given birth to them.

II. *The Family in Africa.*

The uterine family is far from being rare in negro Africa, but this does not in any way hinder the man from exercising a discretionary power over his wife or wives, and still more over his children. We have previously seen how lamentable the fate of woman is among the negro Africans, and how excessive are "the rights of the father of the family," since he can traffic in his children without rebuke. This virile despotism may easily coexist with the adoption of uterine filiation. In one Kaffir tribe, the men used their own children to bait their traps for catching lions,[1] and yet maternal filiation prevails in Kaffraria; only it does not govern inheritance. This mode of filiation is adopted by other races as well as Kaffirs. "In Guinea," says Bosman,[2] "if it pleases the daughter of a king to marry a slave, her children are free." Among the Fantees, the chief slave has the rights of succession, to the exclusion of the son; but the latter is only deprived of paternal succession; the property of his mother, as distinct from that of his father, comes to him.[3] At Dahomey there seems to be, in the royal family, a symbolic survival of the maternal family. At the death of the king, his sister exercises a regency of several days, and her duty is to occupy the throne in reality, and to remain seated on it as long as a successor has not been appointed.[4] But this does not in any way hinder the populations of Dahomey from adopting as a general custom, not only masculine succession, but even the right of primogeniture.[5] Barbarous as Dahomey may be, it is already a society of too complex a structure to accommodate itself easily to the

[1] Layland, *Journal of Ethnological Society*, 1869.
[2] Bosman, *Voyage en Guinée*, p. 197.
[3] Bowdich, *Observations sur le Gouvernement des Achantis* (collection Walkenær, t. xii.).
[4] A. Giraud-Teulon, *Orig. de la Famille*, p. 216.
[5] Herbert Spencer, *Sociology*, vol. ii. p. 340.

maternal family. Has this savage mode of filiation been formerly in use there? It is possible; but the short regency of the king's sister is a very insufficient proof of it. In eastern Africa, among the Vouazegouras, and also among the Bangalas of Cassanga, the uncle has the indefeasible right to sell his nephews, and in so doing he has the strong approval of public opinion. "Why," say they, "should a man remain in need while his brothers and sisters have children?" Yet this relates to tribes long under Arab influence. In the same region, the Vouamrimas generally consider the son of their sister as their heir, in preference to their own children.[1] Among the Bazes and the Bareas, succession is also in the maternal line, and the heirs are, in the first degree, the eldest son of the eldest sister; and in the second degree, the second son of the same sister,[2] etc. In southern Africa the children belong to the maternal uncle, who also has the right to sell them.[3] It is the same among the Basuto Kaffirs. With these last, as a Kaffir chief informed me, it is again the nephew who succeeds to the throne.[4] The Makololo Kaffirs, however, seem to be in process of adopting paternal filiation; or at least they combine it with maternal filiation, by compelling the husband, as Livingstone informs us, to redeem his children by the payment of a tax, without which they would belong to the maternal grandfather.

In short, there is no uniform rule among the Kaffirs, for Levaillant has seen a tribe with whom the inheritance was transmitted at a man's death to his wife and male children, to the exclusion of the daughters,[5] which is again a transitional *régime.*

In some districts of central Africa, among populations that are half-civilised, and more or less converted to Mahometanism, matriarchal customs still persist. On the Niger, at Wowow and at Boussa, it is the grandmother who grants or refuses to her grand-daughter the permission to marry.[6] The curious privilege that, according to Laing, the

[1] Burton, *Journey to the Great Lakes*, p. 37.
[2] A. Giraud-Teulon, *loc. cit.*, p. 211.
[3] L. Magyar, *Reisen in Sud-Africa*, pp. 256, 284.
[4] Ch. Letourneau, *Bull. Soc. d'Anthrop.*, 1872.
[5] Levaillant, *Hist. Univ. des Voy.*, t. xxiv. p. 210.
[6] R. and J. Lander, *Hist. Univ. des Voy.*, t. xxx. p. 244.

Soulima have, to quit their husband when they please, is perhaps of matriarchal origin also.[1]

The exogamy of the clan, which frequently coexists with uterine filiation, is met with here and there in Africa. Burton has proved the existence of it among the Somals,[2] and Du Chaillu has found it at the Gaboon.[3] Traces of the maternal family still exist, or have existed, in African societies that are more or less barbarous, but which have, however, emerged from savagery; in Madagascar, Nubia, Abyssinia, and especially in ancient Egypt. Among the Hovas of Madagascar, not only wealth, but political dignities, and even sacerdotal functions, are transmitted to the nephew, the sister's son. The Saccalavas do the same as the Hovas, and among them the women of high rank willingly take husbands of inferior rank, who simply become their servants. As for the children, they inherit the rank and rights of their mother.[4] The same customs prevail among the Nubians, or did formerly prevail; the Arab chroniclers tell us that among them the heritage belonged, not to the son of the deceased, but to the nephew, the sister's son. The Nubians justified this custom pertinaciously, by saying that the consanguinity of the sister's son had the advantage of being incontestable.[5] And lastly, Nicholas of Damascus says the same thing of the Ethiopians.[6]

Without the proof of any absolutely precise text, we have an accumulation of facts which render it very probable that, in ancient Egypt, maternal filiation was in force. In a preceding chapter I have spoken of the exceptional position granted to the free woman in the kingdom of the Pharaohs. I will recall, in passing, that until the time of Philometor, who deprived women of the right to dispose of their property, the word *husband* never occurs in marriage deeds.[7] Besides this, public deeds often only mention the mother, up to the time of this same King Philometor, who, being evidently a determined partisan of the patriarchate,

[1] Laing, *Hist. Univ. des Voyages*, t. xxviii. p. 106.
[2] Burton, *First Footsteps*, etc., p. 420.
[3] *Equatorial Africa.*
[4] Noël, *Bull. Soc. de Geogr.*, t. xx. p. 294 (quoted by Giraud-Teulon)
[5] A. Giraud-Teulon, *Orig. de la Famille*, p. 209.
[6] *Id.*, *ibid.* p. 208. [7] *Id.*, *ibid.* p. 248.

ordered the names of contractors to be registered according to the paternal name.[1] Also, in the valley of the Nile, the hieroglyphic funeral inscriptions frequently bear the name of the mother without indicating that of the father, and it is only in demotic inscriptions that paternal filiation is mentioned.[2] We must add that in Egypt women could reign, and that during the lifetime of the monarch who was their husband they divided with him the sovereign honours, and even, according to Diodorus,[3] received the larger share of them. All these facts seem to attest that in Egypt free women enjoyed an exceptionally favourable position, and they render probable the ancient existence of uterine filiation in the valley of the Nile. There are, however, some contradictory facts, especially the genealogy of the chief priests, of which Herodotus speaks, and also the incestuous endogamy customary in the royal families. According to Herodotus, the Egyptian priests showed him, at Thebes, three hundred and forty-one wooden statues representing high-priests, all born one of the other in the masculine line: "Each of these statues," he says, "represents a Piromis born of a Piromis."[4] From which it would result that in Egypt, at least in the sacerdotal caste, masculine filiation was established from the highest antiquity, for a hundred and forty-one generations represent something like ten or eleven thousand years. Maternal filiation is also generally connected with exogamy, while the Pharaohs habitually married their sisters. According to Diodorus, this was even obligatory.[5] In the ancient royal records the qualities of sister and wife of kings are often found united. Under the Ptolemies, all the queens have borne both these titles; and we may perhaps refer to an ancient tradition of Egyptian origin certain customs which recently existed in the Soudan, Abyssinia, and Madagascar. At Massegna, in the Soudan, Barth tells us that Othman Bougoman, Sultan of Massegna, had among his wives one of his sisters and one of his daughters. At the end of the seventeenth century, the sister of the king of Abyssinia displayed a sumptuous style of living peculiarly feminine:

[1] A. Giraud-Teulon, *Orig. de la Famille*, p. 233.
[2] *Id.*, *ibid.* p. 232.
[3] Diodorus, i. 27.
[4] Herodotus, ii. 143.
[5] *Id.*, i. 27.

"The sister of the emperor appears in public mounted on a mule richly caparisoned, having by her side her women bearing a daïs over her. From four to five hundred women surround her, singing verses in her praise, and playing the tambour in a lively and graceful manner."[1] And at the present time, among the Malagasy nobility, marriage between brother and sister is very common.[2]

There is certainly nothing farther from exogamy than marriages between brothers and sisters; but, to say the truth, there is no logical and necessary connection between the form of filiation and exogamic or endogamic customs.

The Malagasy contract what we should call incestuous marriages, while preserving maternal filiation; the Arabs and Kabyles, on the contrary, in obedience to the prescriptions of the Koran, have a horror of incest. The sacred book prohibits a man from taking to wife his mother, daughter, sister, his paternal or maternal aunt, his granddaughter, his mother-in-law, his daughter-in-law, or even his nurse and foster-sister. A man was not to marry two sisters at the same time.[3] This is indeed a limited exogamy; and yet the Koran establishes the paternal and even patriarchal family very clearly. The study of the family in Malaya and among the aborigines of India will complete the proof that in the same country, and in the same race, various systems of marriage, family, and filiation, may coexist, and that consequently we must guard against formulating too strict sociological laws in regard to them.

III. *The Family in Malaya.*

At Sumatra there were three kinds of marriages—1st, the wife, or rather the family of the wife, bought the man, who henceforth became her property, worked for her, possessed nothing of his own, was liable to be dismissed, and could commit no fault without the proprietary family being responsible for it, exactly as the Roman master answered for

[1] *Lettres édifiantes*, t. iv. p. 327 (*Voyage en Éthiopie du médecin, Ch. J. Poncet, en* 1698-1700).
[2] A. Giraud-Teulon, *Orig. de la Famille*, p. 258.
[3] Surat, iv. 27.

his slaves; 2nd, the man and the woman could marry on a footing of equality; 3rd, the man bought his wife or wives.[1] The first form of marriage, that of servitude of the man, who, instead of marrying, is married by the family of his wife, has fallen into desuetude in Malaya, but it has left behind it, in certain districts, the system of maternal filiation. It is the maternal uncle who is the head of the family, or, in default of him, the eldest son of the wife's family. If there is neither uncle nor son old enough, it is the mother who becomes the head of the family, and the father only takes her place in case she has disappeared, and when all the children are minors. At the death of a man, his property does not go to his wife or children, but to his maternal family, and in the first place to his brothers and sisters. The married man also continues to live in his maternal family; it is the field of his own family that he cultivates, and he only accidentally assists his wife.[2] In short, under this system the individual, whether man or woman, is not set free in the least from the family in which he is born; it is for this family that the woman bears children; filiation and inheritance must therefore follow the maternal line. But it is not at all the same throughout Malaya. Marsden tells us that a man sometimes buys his wife by giving a sister in exchange;[3] he must therefore be the proprietor of his sister, and consequently of the wife whom he procures by means of this barter.

In the Arroo Isles the men buy their wives, by giving gongs, clothes, etc., to the parents of the women.[4]

At Timor the son-in-law buys his wife thus from his father-in-law, and the latter can remain owner of the children if they are not included in the bargain;[5] but these customs are not easily compatible with the system of the maternal family, and, taken altogether, they prove that in Malaya the family is not by any means constituted in a uniform manner. We shall see that it is the same with the primitive races of India.

[1] Marsden, *Hist. of Sumatra*, p. 262.
[2] A. Giraud-Teulon, *Orig. de la Famille*, pp. 199, 200, etc.
[3] Marsden, *Hist. of Sumatra.*
[4] Wallace, *Malay Archipelago*, vol. ii. p. 169.
[5] A. Giraud-Teulon, *loc. cit.*, p. 265.

IV. *The Family among the Naïrs of Malabar.*

In the first place, we have to inquire what the family is among the Naïrs of Malabar, whose curious polyandry I have previously described. The Naïrs of Malabar are not by any means savages; they form an aristocratic caste. We have seen how, from a very early age (ten to twelve years), the young Naïr girls, after having been solemnly deflowered by a stranger, who has been paid to perform this task, practised the widest polyandry, without any other restriction than the prohibitions relative to caste and tribe. As is usual and even natural, Naïr polyandry coexists with a system of maternal filiation. Precautions are taken in order that the free and numerous unions of the Naïr ladies should not destroy the family. The Naïr husbands are reduced to the modest *rôle* of progenitors; and it is to the wife that the fortune of the family belongs. It is not, however, the mother who governs the family, but her brother. To this brother belongs the duty of bringing up his nephews, of protecting them, and of mourning for them, if they happen to die; in reality, he is an avuncular father, and when he dies his nephews inherit his personal property. In the Naïr family the polyandrous mother is much respected, and the next in honour to her is her eldest daughter, who will replace her in her *rôle* of mother-bee, the producer of children. The Naïr husbands, the fathers, only enter the house of their common wife by turns and on certain days; they have not even the right to sit down by the side of their wife or their children; they are mere passing guests, almost strangers.[1]

If we regard these facts on a certain side, it appears as if we may at last have found among the Naïrs, in a country where the matriarchate incontestably reigns, the legal pre-eminence of woman over man, or the *materna potestas*. It is, in fact, the Naïr woman who possesses; it is through her that wealth is transmitted, and, given the *régime* of free polyandry, it is difficult for Naïr children to know their own father. Moreover, in various polyandric countries of

[1] Bachofen, *Antiq. Briefe*, pp. 216, 278 (quoted by A. Giraud-Teulon, *loc. cit.*, pp. 150, 154).

Malabar, the pre-eminence of the woman in the family has influenced the political organisation, and thus an entire female feudal system has arisen, the bonds of suzerainty and vassalage reposing on a fictitious polyandry. Thus, in February 1887, the English journals announced that the Sultan of the Laccadives, having become the vassal of England, had notified to his subjects his new position by means of a proclamation, in which he explained that he had ceased to be the *husband* and subject of his ancient suzerain, the Bibi of Cannanor; for by a special favour the government of Ceylon had consented to admit him to the number of the *husbands*, that is to say, of the direct vassals, of the Queen of England. We must note that for the Indians of this region the Queen of England is "the daughter" of the East India Company, and lives in a palace in London with many men. And now what is the real value of this polyandric matriarchate? It is surely more apparent than real. Among the Naïrs, as everywhere else, property assures to the man or woman who possesses it an importance in proportion to its value. The Naïr lady then, being a proprietor, is highly esteemed. But it does not follow that this esteem is equal to undisputed domination. Doubtless among the Naïrs the man, as husband, does not exist; nevertheless he is a warrior, and even a very fierce one. But military force has this in common with money, that it is nowhere despised. Therefore, in the family of his sister, the Naïr man is anything but a subordinate. We have just seen this. It is he who governs and brings up the children of his sister by her numerous husbands. He is, in reality, the chief of his sister's family, and what he loses as husband he gains as uncle.

Reduced to their true value, the polyandry and the familial *régime* of the Naïrs still remain a sociological fact of the greatest interest. It is at once the most complete and the most logical of polyandric systems. In reality, the Naïr marriage does not only or specially include groups of brothers or sisters; full liberty is given to the woman, save only the restrictions of class. There is no attempt, as in Thibet, to create a masculine pseudo-filiation, by arbitrarily attributing such or such children to such or

such husbands. Among the Naïrs, the maternal family is instituted in all its plenitude; and lastly, their polyandry is in no way thwarted by the proportion of the sexes, for if the woman may contract marriage with several men, each one of the latter in his turn has power to enter several conjugal associations. This matrimonial *régime* is therefore perfectly compatible with the maintenance of the population and the equilibrium of the sexes.

V. *The Family among the Aborigines of Bengal.*

If we proceed with our investigations by studying the familial and matrimonial *régime* of the aborigines of Bengal, we shall find, among populations having probably a common origin, systems of family and marriage which are very dissimilar.

Here and there we discover the maternal family, or customs proving that this familial fashion has formerly been in force.

According to Buchanan, among the Buntar, who are neighbours to the Naïrs, a father is free during his lifetime to make presents to his children, but at his death all that he possesses goes to his sisters and their children. The Kochh, also, have no kinship or succession except through the women. The mothers arrange the marriages; the fathers never interfere, and the husband goes to live with his wife and his mother-in-law, whom he obeys. As for widows, they choose themselves young husbands when they are rich. Among the Yerkalas of Southern India, the maternal uncle has the right to claim for his sons the two eldest daughters of his sister.[1] Among the Khasias, it is to the son of the sister that the power of the Rajah is transmitted; but this princess (*Kunwari*) has not the right to marry herself; she is subject to reasons of state, and her husband is chosen by the assembled people.[2] The Garos have established the rule, that in marriages the right of initiative belongs to the woman; it is the young girl who distinguishes the man of her choice, tells him so, and invites

[1] Shortt, *Trans. Ethn. Soc.*, vol. vii. (New Series).
[2] Dalton, *Ethnology of Bengal*, p. 54.

him to follow her. Any advance made by a man is considered as an insult to all the clan (*mahari*) of the girl, and in order to expiate it, libations of beer and sacrifices of pigs are required, all of them at the expense of the *mahari* of the man. The marriage of the Garos answers exactly to the ceremony of capture, only the actors change parts; it is here the bridegroom who pretends to refuse the bride, runs away and is conducted by force to his future wife amidst the lamentations of his relations.[1] At the death of a man, among the Garos, the widow remains mistress of the house, but the other property passes to a collateral heir, who marries the widow and sometimes her daughter also.

If we were to confine ourselves to the consideration and interpretation of these facts only, we might naturally conclude that the familial *régime* of the aborigines of Bengal is maternal; but contradictory facts are not wanting. Among the Bhuiyas, although the demand in marriage is made by the girls, as with the Garos, the sons receive the names of their male ascendants; the eldest son takes the name of the grandfather; the second son takes that of the great-grandfather, and the names of collaterals are given to the other sons.[2] Among the Muasis, it is the father who negotiates the marriage of his daughter, or who sells her, rather, for a certain number of measures of rice solemnly measured and delivered.[3]

Among the Malers of Rajmahal, it is again the father who places his daughter's hand in that of her future husband and exhorts him to love his wife.[4] The Kandhs have adopted succession in the masculine line, with a division of property amongst the sons.[5] The servitude of the women amongst the Korwas is very great; they are oppressed with work, and till the fields and gain the daily bread, whilst the men hunt or repose.[6] The Michmis buy their wives, have as many as they can procure, and own them like chattels, since at a man's death all his wives, except the mother of the heir, pass to the nearest male relation.[7] Among the Mundas, after the decease of the father of a family, the sons live together until the majority of the

[1] Dalton, *Ethnology of Bengal*, p. 63.
[2] *Id.*, *ibid.* p. 142.
[3] *Id.*, *ibid.* p. 233.
[4] *Id.*, *ibid.* p. 273.
[5] *Id.*, *ibid.* p. 294.
[6] *Id.*, *ibid.* p. 226.
[7] *Id.*, *ibid.* p. 16.

youngest of them; they then proceed to divide the property, including their sisters, who are exactly assimilated to cattle.[1] The Ooraons share the widows amongst the brothers and cousins in the same way as the Mundas share their sisters.[2]

We find, therefore, no uniformity in the familial organisation of the Bengalese aborigines; and it is the same in regard to their exogamy or endogamy. Exogamy is common. Thus the Juangas are divided into exogamous tribes.[3] The Khonds think it humiliating to marry the women of their own tribe. It is more manly, in their opinion, to go and *take* a wife from a distant neighbourhood.[4] The Munniporees are divided into four clans, who do not intermarry.[5] Among the Santals, it is forbidden to men to marry in their own clan; but their children belong to the paternal clan.[6] The Limboos (near Darjeeling) are also exogamous, but evidently oscillate between the maternal and paternal family; for the daughters remain in the tribe or rather in the clan of their mother, whilst the sons belong to the paternal clan, but only after the father has paid a certain sum to the mother.[7] The Garos are divided into several clans or *maharis*, and, amongst them, a man must not marry in his own clan, but in another appointed clan, in which from time immemorial his family has been accustomed to take wives.

Other aborigines of Bengal are endogamous. Thus it is imperative for the daughters of the Abors to marry in their own clan, or the sun and moon would cease to shine.[8] According to Hebert, the Karens of Tenasserim are more than endogamous, for among them marriages between brother and sister, father and daughter, are frequent enough in the present day.[9]

What may we deduce from these contradictory facts? A general conclusion, which I have expressed several times

[1] Dalton, *Ethnology of Bengal*, p. 200.
[2] *Id.*, *ibid.* p. 272.
[3] *Id.*, *ibid.* p. 158.
[4] Macpherson, *Report on the Khonds.—Account of the Religion of the Khonds in Orissa*, p. 57.
[5] MacCulloch, *Account of the Valley of Munniporees*, etc., pp. 49, 69.
[6] Hunter, *Annals of Rural Bengal*, p. 236.
[7] A. Giraud-Teulon, *Orig. du Mariage*, p. 266.
[8] Dalton, *Ethnology of Bengal*, p. 28.
[9] Herbert Spencer, *Sociology*, vol. ii. p. 218.

over: namely, that in what concerns the evolution of marriage and of the family, there is no absolute law. Nevertheless, by reason of the familial and matrimonial confusion usual in the greater number of primitive societies, maternal filiation has been adopted more often than paternal, and has frequently preceded it.

VI. *The Couvade.*

There is a custom, at first sight extraordinary but still common enough, which must have arisen during transitional epochs, when, polygamic or monogamic marriage having become established, the husbands have exerted themselves to affirm their parental rights, and to substitute masculine filiation for the ancient uterine filiation. In the same way as in certain countries, Abyssinia,[1] for example, in order to proclaim an adoption, the adoptive father simulates some maternal practice, sometimes goes so far as to offer his breast solemnly to his adoptive son, so, in very different countries, the husband has found no better way to prove his paternity than to simulate childbirth; and hence the very singular custom of the couvade.

At first sight, it seems very foolish for the husband to take to his bed immediately after the delivery of his wife, and for a certain number of days to be nursed and tended by the mother herself.

The existence of the custom has often been questioned. It will not be out of place, therefore, to quote authentic facts which put all doubt to silence. These facts are numerous enough, and have been observed in various parts of the globe; in America, Asia, and Europe.

In New Mexico, among the Lagunero and the Ahomana, when a woman is delivered of a child, the father goes to bed for six or seven days, and scrupulously abstains from eating fish or meat.[2] As soon as a Carib became a father, he at once went to bed and simulated childbirth by suitable cries and contortions; the women of the hamlet hastened to his side and congratulated him on his happy delivery.[3]

[1] D'Abbadie, *Douze ans dans la haute Éthiopie*, p. 272.
[2] Bancroft, *Native Races*, etc., vol. i. p. 585.
[3] Du Tertre, *Histoire des Antilles* (1667), t. ii. p. 371.

The Choctaw Redskins formerly had an analogous custom. Brett and Im Thurn have observed this "lying-in" among the Indians of Guiana. The father, Brett says, goes to his hammock quite naked, taking the most indecent posture, and he remains there some days as if he were ill, receiving the congratulations of his friends and tended by the women of the neighbourhood, whilst the mother of the new-born infant goes about her cooking without receiving any attention.[1]

The testimony of the Jesuit Dobritzhoffer, in regard to the Abipones, is not less explicit: "Among the Abipones of South America," he says, "as soon as the wife has given birth to a child, the husband is put to bed, and carefully tended; he fasts for a certain time. You would swear that it is he who has just been delivered. I had formerly read of this and smiled at it, not being able to credit such folly, and supposing that this barbarous custom was related more as a joke than seriously, but at last I have seen it with my own eyes amongst them."[2] More recent testimony confirms what I have just quoted. In 1842 M. Mazé, Commissioner-General in French Guiana, himself proved the custom of couvade among the Indian tribes on the river Oyapok. In 1852 M. Voisin, justice of the peace in a commune of French Guiana, ascending in a canoe the river Mana, received hospitality one night in the hut of some Galibi Indians. On awaking he learned that during the night, and behind a partition of foliage which separated his hammock from the household of his hosts, a child had been born. The mother had uttered no sound, and at daybreak M. Voisin saw her go to the river-side and make her toilet, then take her new-born child and throw it several times into the water, catching it as it rose to the surface, and then wiping it with her hands. The husband, on the contrary, remained all the while in his hammock, acting the invalid, and receiving with the greatest seriousness the attention lavished on him by his wife.[3]

The couvade comedy is not always so complete. In certain tribes it is attenuated, and becomes more symbolic.

[1] A. Giraud-Teulon, *Orig. du Mariage*, p. 138.
[2] *Historia de Abiponibus* (1784), vol. ii. p. 231.
[3] *Bull. Soc. d'Anthrop.* (July 1884).

Thus in California, when the mother is delivered, the father is content to keep to the house and abstain from eating fish and meat.[1]

Among various tribes of South America the husband of the woman limits the practice to a few hygienic precautions; this is the couvade reduced to its simplest expression.[2]

This custom was found in Asia, among the Tartars, by Marco Polo. It still exists in Bengal, among the Larkas, although attenuated; on the occasion of a birth the parents quit the house, the wife and husband are both declared unclean for eight days, and during that time the husband cooks the food. After which the masculine filiation of the child is proclaimed by solemnly giving him the name of his grandfather.[3] We shall be mistaken if we imagine that the couvade is special to very inferior races. The Greco-Roman writers have quoted a certain number of examples observed among the barbarians of the ancient world. Strabo relates that the Iberian women, after the example of those of the Celts, Thracians, and Scythians, quit their beds as soon as they are delivered, and give them up to their husbands, whom they tend.[4] Diodorus tells us that in Corsica, after a woman has given birth to a child, the husband goes to bed as if he were ill, and he remains there an appointed number of days like a lying-in woman.[5]

In his *Argonautica* Apollonius of Rhodes speaks of a people of Tibarenedes, on the north-west coast of Asia Minor, who had the custom of the couvade: "As soon as the married women are delivered, their husbands groan, lie on beds, and cover their heads. All this time their wives give them strengthening food, and prepare baths for them suitable for lying-in women."[6] It is probable that more than one trace of this "lying-in" still exists in Europe, in superstitious and popular practices. Quite recently a Russian has informed me that it is still in use in the Baltic provinces, but naturally in a form of survival in

[1] Bancroft, *Native Races*, vol. i. p. 412.
[2] A. d'Orbigny, *L'homme Américain*, t. i. p. 237.
[3] Dalton, *Ethnology of Bengal*, p. 190.
[4] Strabo, iii. 16. [5] Diodorus, v. 14. [6] *Argonautica*, ii.

which the meaning is lost. It is, however, complete enough; the husband goes to bed, utters groans and cries, and his neighbours hasten to his side. And lastly, M. Léon Donnat told me lately that he had discovered the couvade still practised in the little island of Marken, in the Zuydersee.

However strange it may be, a custom that is thus widely spread in countries, races, and epochs extremely diverse must have had a serious *raison d'être*. It cannot be attributed to mere caprice.

Now the only plausible explanation is that which gives to the couvade the value of our registry of birth. Not, perhaps, all over the world, but here and there, at the moment when the effort was being made to found the paternal family, or at least to determine masculine filiation, some very simple-minded tribes conceived the idea of symbolising the share of the man in procreation by the gross mimicry of childbirth. By this practice, so well calculated to strike the attention, the father openly affirmed his paternity, and doubtless acquired certain rights over the new-born child. Let us note that the custom has been especially preserved among the American Indians, that is to say, in a country where the system of the maternal family has been, and still is, widely spread. The couvade probably represents an effort to emerge from it. It shows that the man will no longer share his wife or wives, that he claims to have children which are certainly his own, and who will doubtless inherit his possessions. It is, in short, a revolt of individualism against primitive communism. The mimicry is gross and strange, but in a social condition where there exists neither lawyer, nor mayor, nor register of civil acts, testimonial proof is the great resource, and, in order to make it sure and durable, men have willingly had recourse to striking and complicated practices which are calculated to engrave the remembrance of a fact on the memory of those present.

The procedure of primitive Rome offers us many examples of the same kind; and notably in the formalities of emancipation, when the Roman father made, three times in succession, a simulation of selling his son.

VII. *The Primitive Family.*

In the preceding pages I have collected together, with as much exactitude as I could, all that we know of the familial clan and the maternal family. It would be bold to assert that such have been the primitive and always necessary forms of the family. It is indisputable, however, that they are or have been very common in all countries and in all races. But these are types of familial association already regulated and complicated. Anterior to them there must have existed, in the little human hordes, a complete anarchy, most often characterised by the despotism of the strongest male, dominating a small flock of women and children, who were meekly submissive to his caprices—in fact, a sort of bestial patriarchate. Among thinly-scattered races, without intelligence or industry, practical monogamy was established at the very outset. We know that this was the case with the stupid Veddahs of Ceylon, when they wandered in simple families in the virgin forests of their island, incapable of constituting even the smallest horde. As soon as men have grouped themselves in small societies, regulated even in a slight degree, the familial clan with its confused kinship must frequently have been constituted, but on plans which were necessarily variable according to the conditions and exigencies of the social life. All that was possible has surely been attempted; sometimes regulated promiscuity, for each man claimed his rights, sometimes the mixed polyandric and polygynic household, elsewhere simple polyandry, when the women were scarce, and at other times monogamy.

I repeat, all that was compatible with the maintenance of the little social group must have been tried at first; and then selection assured the permanent adoption of such or such a system. As soon as men began to take note of descent, it was always uterine filiation that they held in account; paternal descent was less evident, and less easy to prove; it has been nearly everywhere the latest, and the widely-spread custom of the couvade proves that it was not established without difficulty. It has ended, however, by triumphing, all over the world, in the states that are still

barbarous, but which have a complex social and political structure, where the primitive tribal *régime* has more or less disappeared, and where a line of demarcation sufficiently strong separates the interests of the individual from those of the group to which he belongs. In short, the social transformation from which the paternal family has arisen has nearly always coincided with a radical change in the *régime* of property, which has simultaneously become individual or, at least, familial.

CHAPTER XIX.

THE FAMILY IN CIVILISED COUNTRIES.

I. *The Family in China.*—Filiation in Japan—Traces of ancient fraternal filiation in China—Fictitious kinship in China—The patriarchate in China—The Chinese clan—The idea of the family in the political organisation.

II. *The Family among the Semitic Races.*—The primitive clan among the Arabs—The primitive clan among the Hebrews—Laws of inheritance among the Hebrews—The uterine sister and the german sister—The maternal family in Phœnicia.

III. *The Family among the Berbers.*—Meaning of the word "Berber"—Maternal filiation among the ancient Berbers and Touaregs—Traces of the ancient organisation of the clan among the Kabyles—The actual patriarchate among the Kabyles—Categories of heirs.

IV. *The Family in Persia.*—No trace of the familial clan and of exogamy—Incestuous endogamy—Marriage by rent in modern Persia—The right of primogeniture.

V. *The Family in India.*—The family in Vedic India—The patriarchate in the Code of Manu—The right of primogeniture—Paternity by suggestion—Traces of the familial clan and of the maternal family in Tamil India and Ceylon.

VI. *The Greco-Roman Family.*—The primitive *gens*—Maternal filiation in Crete, in primitive Athens—Uterine fraternity and german fraternity—Paternal filiation in the *Orestes.*—The *Patria potestas* at Rome.

VII. *The Family in Barbarous Europe.*—The Celtic clan—Incestuous endogamy of the Irish—The Slav *mir*—Traces of maternal filiation in Germany and among the Picts.

I. *The Family in China.*

In order to study the family under the latest forms that it has assumed, we must set aside all strict distinction of race. Doubtless the white races have ended by excelling the

others, and by attaining a higher degree of moral, social, and intellectual development. Nevertheless, the ethnic groups, belonging to the races classed together *en bloc* as inferior, have emerged from savagery, and formed large societies, which have been veritable training schools for the men of their race.

Now, in all the States which have succeeded in attaining some degree of civilisation, the paternal family is the type that has been finally adopted. It was thus in Peru, in Mexico, and even in ancient Egypt, where King Philometor gave the finishing stroke to the maternal family which had so long flourished in the valley of the Nile. With much more reason in China, a country very civilised after its own fashion, an analogous evolution must have been effected. Indeed, in China proper, there are scarcely any traces of the maternal family left; but they are still visible in Japan, whose civilisation has been entirely borrowed from China.

In Japan, as formerly among the Basques, filiation is subordinated to the transmission of the patrimony whole and inalienated. It is to the first-born, whether boy or girl, that the inheritance is transmitted, and he or she is forbidden to abandon it. At the time of marriage the husband or wife must take the name of the heir or heiress, who marries and personifies the property. Filiation is therefore sometimes maternal and sometimes paternal; but the maternal uncle still bears the name of "second little father"; the paternal aunt is called "little mother," the paternal uncle is called "little father," etc.[1] Marriage between groups of brothers and other groups of sisters has been common enough in primitive societies to enable us to see in this familial nomenclature the traces of one of those ancient unions at once monogamic and polygamic.

In China the language itself attests the ancient existence of a marriage contracted by a group of brothers having their wives in common, but not marrying their sisters. A Chinaman always calls the sons of his brother his "sons," whilst he considers those of his sister as his nephews;[2] but the virtual, or rather fictitious fathers, brothers, and sons,

[1] Lubbock, *Orig. Civil.*, p. 177.

[2] L. H. Morgan, *Systems of Consanguinity*, etc., in *Smithsonian Contributions*, vol. xvii. pp. 416, 417.

are distinguished from the real fathers, brothers, and sons, by the epithet "class" added to their appellation. Thus they say, "class-father, class-son, class-brother"—that is to say, the man who belongs to the class of the father, to that of the son, or to that of the brother. It is therefore simply the American nomenclature perfected.[1] We have previously seen that in China proper, not only the paternal family, but the patriarchate, are rigorously established; that woman is in extreme subjection, and always disinherited;[2] but certain impediments to marriage can only relate to an ancient familial organisation which has now disappeared. In all the vast Chinese empire there are scarcely more than from one to two hundred family names, and the Chinese call themselves the "people of a hundred families." Now in China all marriage between persons bearing the same name is prohibited.[3] In certain villages every one has the same family name; two or three thousand persons, for example, are called "sheep," "ox," "horse," etc., all of them appellations agreeing well with clans having corresponding *totems*.[4] But however it may have been in the past, at the present day masculine filiation is well established in China, and nine degrees of kinship in the direct line are distinguished, which an old Chinese author has enumerated as follows:—"All men who come into the world have nine degrees of kinship—namely, my own generation in the first place, then that of my father, of my grandfather, and of the father and grandfather of my grandfather. In a descending line come the generation of my son, that of my grandson, then that of his son and his grandson. All the members of one same generation are brothers to each other."[5] Let us note that this filiation, short as it is, is still associated with kinship by classes.

Doubtless these accounts, taken alone, would be insufficient, but united with those which the study of the family

[1] Morgan, *loc. cit.*, p. 422.
[2] G. Eugène Simon, *La Famille Chinoise*, in *Nouvelle Revue*, 1883.
[3] Davis, *The Chinese*, vol. i. p. 282.—Pauthier, *Chine moderne*, p. 238.
[4] A. Giraud-Teulon, *Orig. du Mariage*, p. 363.
[5] L. Morgan, *loc. cit.*, pp. 416, 425.

among the Australians, the Redskins, the Tamils, etc., has furnished us with, they warrant us in believing that the Chinese paternal family is the last term of an evolution having for its starting-point the familial clan, and having passed through the maternal family.

Let us add, in conclusion, that the system of fictitious kinships is reflected throughout the governmental organisation of China. In reality the political structure of China is only an enlarged copy of the family. The emperor is the reputed father and even mother of all the empire. The mandarin who governs a town is the "father" of that town, and he himself has for "governmental father" the mandarin of a superior grade, whom he obeys.[1]

We shall now discover traces of a similar evolution of the family among the Semites and Berbers.

II. *The Family among Semitic Races.*

When we read the word "patriarch" in our current literature. our thoughts instantly fly to the chief of the ancient Semitic, and especially the Hebraic family, the little tyrant holding grouped under his despotic sway his wives, children, and slaves—that is to say, the patriarchate in all its severity, with the power of life and death attributed to the patriarch. But this Semitic patriarch has not existed from the beginning; he is the result of a long anterior evolution, and, like so many other peoples, the Semites have begun with the confused kinship of the familial clan. We have previously found, in studying primitive marriage among the Arabs, an ancient *régime* of free polyandry, analogous to that of the Naïrs. At this distant epoch the woman still bore children for her clan, and this clan was so much like a large family, that in the present day even, in certain parts of Arabia, the word used for clan literally signifies "flesh."[2] To be of the same clan, therefore, was to be of the same flesh.

It was in a relatively recent epoch that paternal filiation was established among the Arabs. In the time of the

[1] *Lettres édifiantes*, t. xv. p. 164.
[2] R. Smith, *Kinship*, etc., p. 148.

prophet the prohibitions of marriage were still on the maternal side,[1] and in all ages the collateral kinship with uncles and aunts has been considered very close in Arabia.[2]

Among the Hebrews, individual property was instituted in very early times, for it is alluded to in Genesis.[3] But various customs show clearly the ancient existence of communal clans. Thus the inheritance, especially the paternal inheritance, must remain in the clan. Marriage in the tribe is obligatory for daughters: "Let them marry to whom they think best; only to the family of the tribe of their father shall they marry. So shall not the inheritance of the children of Israel remove from tribe to tribe; for every one of the children of Israel shall keep himself to the inheritance of the tribe of his fathers."[4]

Moses instituted three classes of heirs: first the children, then the agnates, and then the members of the clan or gentiles.[5] The Hebrew father did not inherit from his son, nor the grandfather from his grandson, which seems to indicate an ancient epoch, when the children did not yet belong to the clan of their father.

For a long time among the Hebrews the german sister was distinguished from the uterine sister; the kinship with this last was considered much closer. In primitive Judæa a man could marry the first, but not the second. To the King of Egypt and to Abimelech, who reproached Abraham for having passed Sarah off as his sister, the patriarch replies: "For indeed she is my sister; she is the daughter of my father, *but not the daughter of my mother*, and she became my wife." In the same way Tamar could become the wife of Amnon, for she was only his paternal sister.[6] The father of Moses and Aaron married his father's sister, who was not legally his relation.[7] Abraham himself could marry his paternal sister, and his brother Nabor took to wife his fraternal niece, the daughter of his brother.[8] But by degrees paternal kinship was recognised by the same title as

[1] R. Smith, *Kinship*, etc., pp. 147, 151.
[2] *Id.*, *ibid.*, p. 159.
[3] Genesis, xxiii. 13.
[4] Numbers, xxxvi. 4-8.
[5] Numbers, xxxii. 8-11.
[6] 2 Samuel, xiii. 16.
[7] Exodus, vi. 20.
[8] Genesis, xi. 26-29.

maternal kinship, and Leviticus advances as far as to expressly forbid marriage with father's sisters as well as with mother's sisters,[1] "whether they be born at home or abroad." Doubtless all these indications have their value; they are, however, only indications, and it is especially in placing them by the side of similar facts observed amongst other peoples where the existence of the maternal family and the familial clan is indisputable, that we are inclined to accord to them the same significance. In short, it is clear that the Hebrews early adopted paternal filiation and the patriarchate.

The memory of a distant epoch of confused kinship and of free sexual unions had, however, remained in Semitic tradition. Sanchoniathon, indeed, in his *History of Phœnicia*, says that the first men bore the name of their mother, because then the women yielded themselves without shame to the first comer.[2] Among the Berbers familial evolution is much easier to follow than with the Semites, and its lower phases are more evident.

III. *The Family among the Berbers.*

During late years the meaning of the word "Berber" has become considerably widened. We are now inclined to consider as varieties of the same very old race the men of Cro-Magnon, the ancient inhabitants of the cave of Mentone, the ancient Vascons, the Cantabrians, Iberians, Guanchos, Kabyles, Berbers, and Touaregs, etc. All these peoples are thought to belong to one great human type, which we may call Berber, and of which numerous representatives still exist. Anterior to all Asiatic migration, and from the time of the stone age, this race seems to have occupied the south of Gaul and Spain, the Canary Isles, and Northern Africa. At the present day the most important epigonic groups of the Berber race are the Kabyles and the Touaregs of the Sahara. Several writers of antiquity have told us how the family of the ancient Berbers was formerly instituted, and we know *de visu* what

[1] Leviticus, xviii. 9.
[2] Eusebius of Cæsarea, *Preparation of Gospel*, i.

it is among contemporary Berbers. We are therefore able to give a rough outline of it.

The general characteristics of the Berber family seem to have been a privileged position accorded to women and maternal filiation, with tendencies even to the matriarchate. Speaking of the Cantabrians, Strabo writes: "Among the Cantabrians usage requires that the husband shall bring a dower to his wife, and the daughters inherit, being charged with the marriage of their brothers, which constitutes a kind of gynecocracy."[1] The word gynecocracy is surely too strong. We have here probably an account of a custom which still exists in Japan, and which existed quite recently in Basque countries, that of leaving to the first-born, whether boy or girl, the administration of the inalienable patrimony of the family, and of obliging his or her wedded partner to take the name and abode of the family. This is what M. le Play has formerly called the family-stock; but this family-stock may, and doubtless must, have co-existed primitively with maternal filiation.

This last is still in force among the Touaregs of the Sahara, and I have previously spoken of the great independence which their women enjoy, and especially the rich and noble ladies. At Rhât, for example, by inheritances and by the accumulation of productions, it has come to pass that nearly the whole of the real property has fallen into the hands of the women.[2] We know that in ancient Egypt, where the Berbers were largely represented, the women also enjoyed a very similar position. As a consequence of this *régime*, the rights and pretensions of the Berber ladies have become so inconvenient for the men, that many of them prefer to marry slaves.[3] The family among the Touaregs will surely evolve, as it formerly did in Egypt, and as it has done with the Kabyles, where the most rigorous patriarchate has at length replaced the ancient maternal family. In Kabylie, however, traces of the ancient organisation, anterior to Rome and to Islamism, still exist. The Kabyle village has, in its tribe, a political personality which strongly recalls the clan. Many customs, indeed, are evident survivals of an ancient communal organisation. Thus, with the

[1] Strabo, iii. 18.

[2] Duveyrier, *Touâreg du Nord*, p. 339.

[3] *Id.*, *ibid.*

Kabyles, mutual assistance between fellow-citizens is a strict duty. Even in a foreign land the fellow-citizen must be helped, at the risk of all interests and at the peril of one's life. Whoever fails in this duty incurs public contempt; he is even punished with a fine, and made responsible for the losses suffered by the deserted compatriot. Even the Kabyle of another tribe must, at need, be succoured, or his tribe may bring a plaint before the *djemâa* of the tribe to which the egoist belongs, and the latter is punished or reprimanded.

In a Kabyle village, when an individual erects a building, he has a right to the assistance of all the inhabitants. In the same way the greater part of the field labour is performed by mutual assistance.[1] But all this refers to the men; for woman there remains no trace either of the maternal family or of the more or less serious advantages which it generally confers on wives and mothers. One custom, however, and one only, still recalls ancient manners; this is "the right of rebellion," of which I have spoken elsewhere.

We are acquainted with the date at which the last seal was placed on the subjection of the Kabyle woman. It was only a hundred and twenty years ago that the men refused henceforth a legal position to women in the succession of males.[2] At present the Kabyle woman, whether married or not, no longer inherits.[3]

The Kabyle *Kanouns* admit six categories of heirs: 1st, the *açeb* or universal heirs—that is to say, all the male descent, the direct line through males, and all the collaterals descending through males of the paternal branch; 2nd, the ascendants through males on the paternal side—the father, grandfather, and great-grandfather; 3rd, the uterine brother, heir to a legal portion; 4th, the master and the freed man, *açeb* heirs of each other; 5th, the *karouba*—that is to say, the community having its assembly of major citizens, the *djemâa*, and being a civil personage;[4] 6th, the *ensemble* of the *karoubas*, constituting the village. However, the collaterals

[1] Hanoteau et Letourneux, *Kabylie*, t. ii. p. 59.
[2] *Id.*, *ibid.*, t. ii. p. 283.
[3] *Id.*, *ibid.*, p. 286.
[4] E. Sabatier, *Essai sur l'origine des Berbères sédentaires*, in *Revue d'Anthropologie*, 1882.

of all degrees may inherit in default of ascendants and descendants.[1] In all this list there is no mention of women.

In fact, whatever property a Kabyle woman may have been able laboriously to amass, it falls to the male descent, to the ascendants, or to the husband, or to the collaterals in the paternal line. It is only in default of this cloud of male heirs that the succession to the property gained by a Kabyle woman devolves at last on her daughters, or her mother or grandmother.[2] From all the preceding facts, and in spite of gaps in our information, we may, however, suppose that in the Berber world also the family has evolved in passing through three degrees, which we have already found amongst various races, and which are the communal clan, the maternal family, and the patriarchate.

IV. *The Family in Persia.*

This evolution seems therefore very common; it is a general fact, but we are not yet warranted in calling it a law. Thus, as far as our information goes, which it is true is not very complete, no trace of it is to be found among the ancient Persians, with whom we will now begin our interrogation of the Aryan races, from the point of view of their familial organisation. If the familial clan with confused kinship has ever existed in ancient Persia, it can only have been at an extremely remote epoch; there is no trace of it in the *Avesta*. And more than this, the most ancient accounts show us the patriarchal family, in the Hebraic sense of the word, instituted among the Mazdeans: a legitimate wife, purchased from her parents, and by the side of her a greater or less number of concubines; and lastly, dominating all the rest, the father of the family, having the right of life or death over the wives and children.[3]

Not only does the clan not exist, but exogamy is replaced by the most incestuous of endogamies. Thus Strabo relates that, following a very ancient custom, the Magi might have

[1] Hanoteau et Letourneux, *Kabylie*, t. ii. pp. 287, 288.

[2] *Id.*, *ibid.*, t. ii. p. 297.

[3] Dareste, *Sur l'ancien droit des Perses*, in *Bull. de l'Académie des Sciences Morales et Politiques*, 23rd Oct. 1886.—Strabo, xv. 17.

commerce with their own mothers.[1] According to Ctesias, marriage between mother and son was a common thing in Persia, and this not from sudden passion, but by deliberate proposal, "by false judgment."[2] Lucian, on his part, says expressly that marriage between brother and sister among the Persians was perfectly legal. Indeed, in various passages of the *Avesta*, consanguineous unions are recommended and praised.[3] In the eyes of the Mazdeans, whose sacred code expressly forbade all alliance with infidels, endogamy, even when excessive, was evidently moral; and they encouraged it to such a degree as to approve of the kind of incest which is regarded as the most criminal by nearly all other peoples. Neither is there any trace of the matriarchate in ancient Persia, unless we choose to see a vestige of it in the legend according to which, in the time of the mythic monarchies, the eldest daughter of the king had the right to choose her husband herself. For this purpose all the young nobles of the country were assembled together at a festival, and the princess signified her preference by throwing an orange to the man who pleased her best.[4] I mention this tradition that I may omit nothing, but it evidently constitutes a most insignificant proof. Modern Persia, being Mahometan, has regulated marriage and the family in accordance with the Koran. We find, however, by the side of the perpetual marriage which only death or divorce can dissolve, a form of conjugal union less solemn and more ephemeral, and which is not generally recognised by law in countries even slightly civilised. I speak of marriages for a term, or rather the hiring of a wife for a time and for a fixed price. Unions of this kind are legal in Persia. They are agreed on before the judge, and at the expiration of the contract, or rather the lease, the interested parties may renew the engagement if they think well. In a contrary case, the woman can only contract another union of the same kind after a delay of forty days. If before the expiration of the conjugal lease the man desires to break it, he can do so, but only on condition of placing in the hands of the woman the total

[1] Strabo, xv. 20.
[2] *Sancti Joannis Chrysostomi*, Op. i. 384, and x. 573.
[3] A. Hovelacque, *Avesta*, p. 465.
[4] L. Dubeux, *La Perse*, p. 262.

sum stipulated in the contract.[1] The offspring of these temporary unions, or of any sort of union, are all equal before the Persian law, which merely subjects them to the right of primogeniture. At the death of the father, the eldest son, though born of a slave mother, takes two-thirds of the succession. The remaining third of the property is divided amongst the other children, but in such a way that the share of the boys is half as large again as that of the girls.[2] This right of primogeniture and these advantages granted to boys exclude all idea of maternal filiation in the customs of modern Persia, and we have seen that there was no trace of it in ancient Persia; this race therefore seems not to have passed through the phase of the maternal family, nor perhaps through that of the clan.

V. *The Family in India.*

In India, on the contrary, certain customs and traditions appear to be true survivals, relating to an ancient organisation of exogamic clans with maternal filiation. But of these old customs the sacred books retain no trace. In Vedic India the family is already patriarchal, since the husband is called *pati*, which signifies master; but this Vedic family is of a most restricted kind. It is composed, essentially and simply, at first of the husband and wife, who become the father and the mother; then of the son and of the daughter, who are mutually brother and sister. The grandparents belong to the anterior family; the uncles and aunts are part of the collateral families.[3] The Code of Manu is already less exclusive, for it admits, as we shall see, a fictitious filiation; but it is still patriarchal, and, according to Manu, the daughters occupy an entirely subordinate position. It is a son and a chain of male descendants that it is important to have; religion even makes it an obligation; for the ancestors of any man who has not a son to perform in their honour the sacrifice

[1] L. Dubeux, *La Perse*, p. 468.
[2] Chardin, *Hist. Univ. des Voyages*, t. xxxi. pp. 230, 236.—L. Dubeux, *loc. cit.*, p. 468.
[3] E. Burnouf, *Essai sur le Véda*, p. 190.

to the manes, or the *Srâddha*, are excluded from the celestial abode. It is necessary to have a son to "pay the debt of the ancestors." "By a son, a man gains heaven; by the son of a son, he obtains immortality; by the son of this grandson, he rises to dwell in the sun."[1] The Code of Manu already proclaims the right of primogeniture. It is by means of the eldest son that a man pays the debt of the ancestors; it is therefore he who ought to have everything; his obedient brothers will live under his guardianship, as they have lived under that of the father,[2] on condition, however, that if the sons are of different mothers, the mothers of the younger ones are not of superior rank to that of the mother of the eldest son.[3] The son of a brahmanee, for example, would not yield precedence to the son of a *kchâtriya:* caste is always of the first consideration. But the quality of son may be acquired otherwise than by community of blood. Thus a husband may, as we have seen, have his sterile wife fertilised by his younger brother. The child thus conceived is reputed to be son of the husband; nevertheless, in the succession, he is given the share of an uncle only, and not the double share to which he would have had a right if he had been the real son[4] by flesh and blood. If a man has the great misfortune to have only daughters, he can obviate this by charging his daughter to bear him a son. For this purpose, it suffices for him to say mentally to himself: "Let the male child that she gives birth to become mine, and fulfil in my honour the funeral ceremony."[5] The son thus engendered by mental incest and by suggestion, as we should say to-day, is perfectly authentic. He is not a grandson, but a real and true son, and he inherits all the fortune of his maternal grandfather, with the light charge on it of offering two funeral cakes—one to his own father, his father according to the flesh, the other to his maternal grandfather, or father according to the spirit.[6] The law of Manu does not totally disinherit daughters, but it cuts down their share considerably. Under pain of degradation, brothers must give their sisters, but only to their german sisters, the fourth of their share, to

[1] *Code of Manu*, ix. 137.
[2] *Ibid.*, 105, 106.
[3] *Ibid.*, 125.
[4] *Ibid.*, 120, 121.
[5] *Ibid.*, 127.
[6] *Ibid.*, 132.

enable them to marry.[1] Another verse[2] accords to the daughter the inheritance of the maternal property, composed of what has been given to the mother at her marriage. But to be capable of inheriting, this daughter must still be celibate. In the contrary case, she merely receives a present. In short, the whole Brahmanic code is based, in what concerns the family, on masculine filiation and the patriarchate. Nevertheless, customs that are kept up by the side of it, and doubtless in spite of it, prove that in certain parts of India there must formerly have existed exogamic clans and a system of maternal filiation.

But it is important to remark that these survivals are, or were, met with especially in Tamil districts, in Malabar or Ceylon, which were in great measure colonised by Tamils. In certain small kingdoms of Malabar, as late as the seventeenth century, the right of succession was transmitted through the mother; a princess could also, if she pleased, marry an inferior.[3] Custom still designated as brothers to each other the children either of two brothers or two sisters, but the children of the brother and of the sister were only german cousins.[4] Certain families never made any partition, thus preserving the custom of the ancient familial clan.[5] Wherever feminine filiation prevailed, it was the sister's son who succeeded the defunct Rajah.[6] So also in the eastern part of Ceylon, the property was transmitted to the sister's son, to the exclusion of the sons.[7] To conclude, I will mention the custom, also very widely spread in India, of not marrying a woman of the same name.

We must beware of exaggerating the value of these partial facts; they permit us, however, to infer that in certain parts of India, and especially among the Tamils, the family has at first been maternal, and has slowly evolved from the primitive clan.

VI. *The Greco-Roman Family.*

The chief object of this book being to study the evolution of the family and of marriage, I need not describe in detail

[1] *Code of Manu*, ix. 118.
[2] *Ibid.*, 131.
[3] *Lettres édifiantes*, t. xiv. p. 387.
[4] *Ibid.*, p. 320.
[5] *Ibid.*, t. xiv. p. 396.
[6] MacLennan, *loc. cit.*, p. 189.
[7] O. Sachot, *l'Ile de Ceylon*, p. 27.

the Greco-Roman family, which has, besides, served as a theme for so many writers. It certainly appears, contrary to the opinion of the Romans themselves, to have emerged tardily enough from the primitive clan or *gens*. This Roman *gens* was composed, really or fictitiously, of consanguine individuals, living under an elected chief, and having the same name. The union of several *gentes* formed the *curia* or the *phratry*. Grouped together, the phratries or curiæ constituted *tribūs*. And lastly, the assembly of the tribus formed the nation: Rome or Athens.[1] It is therefore the clan, or *gens*, and not the family, which has been at Rome, and at Athens the *cellule*, according to the fashionable expression, of ancient society.

At the dawn of history, these clans were already agnatic; they had adopted paternal filiation, and each of them claimed a common masculine ancestor; but the right of the *gens* to the heritage, and in certain cases the possession of an *ager publicus*, still proved the antique community of property; and a number of indications and traditions bore witness in favour of the existence of a prehistoric phase of the maternal family, preceding agnation. Bachofen goes much further, and not without a show of reason. He insists, for example, that kinship in the Latin clan may at first have been confused. He alleges, on this point, that in the time of Numa the word *parricide* signified, not the murder of a father, but that of a free man of some sort; that in the family tribunal the cognates of the wife figured, and that the cognates wore mourning for each other; that the cognates of the wife, and those of the husband of a wife, had over her the *jus osculi*, or the right of embracing her, etc.; lastly, that the Etruscan Servius, the founder of plebeian liberty, was conceived, says the legend, during a great annual festival, when the people reverted to primitive sexual disorder.[2]

The Greek γένος resembled the Roman *gens*. Its members had a common sepulture, common property, the mutual obligation of the *vendetta*, and an archon.[3]

In the protohistoric clans of Greece maternal filiation was first of all established. The Cretans said motherland

[1] L. Morgan, *Ancient Societies*, pp. 35, 67.
[2] Giraud-Teulon, *loc. cit.*, p. 411.
[3] Grote, *Hist. of Greece*, vol. iii. p. 95.

(μητρίς), and not fatherland (πατρίς). In primitive Athens the women had the right of voting, and their children bore their name—privileges which were taken from them, says the legend, to appease the wrath of Neptune, after an inundation.[1] Tradition also relates that at Athens, until the time of Cecrops, children bore the name of their mother.[2]

Among the Lycians, says Herodotus, the matriarchate endured a long time, and the children followed the status of their mother. Uterine brothers were carefully distinguished from german brothers for a long period in Greece; the former are called ὁμογάστριοι in Homer, and the latter ὄπατροι; and uterine fraternity was regarded as much more close. Lycaon, pleading with Achilles, says, in order to appease him, that he is not the uterine brother of Hector.[3] At Athens and Sparta a man could marry his father's sister, but not his mother's sister.[4] In Etruria the funeral inscriptions in the Latin language make much more frequent mention of the maternal than the paternal descent. Sometimes they mention only the name of a child and that of his mother (Lars Caius, son of Caulia, etc.); sometimes they indicate the father's name by simple initials, whilst that of the mother is written in full.[5]

As in so many other countries, the paternal family succeeded the maternal family in the ancient world, but not without difficulty. To begin with, the fact of marriage did not suffice alone to establish paternal filiation; the declaration of the father was necessary, as well in Greece as in Rome. In his *Oresteia*, Æschylus puts in opposition before Minerva the old maternal right and the new paternal right. The chorus of the Eumenides, representing the people, defends the ancient customs; Apollo pleads for the innovators, and ends by declaring, in a fit of patriarchal delirium, that the child is not of the blood of the mother. "It is not the mother who begets *what is called her child;* she is only the nurse of the germ poured into her womb; he who begets is the father. The woman receives the germ merely

[1] A. Giraud-Teulon, *loc. cit.*, p. 289.
[2] Varro, quoted by St. Augustine, *City of God*, vol. xviii. p. 9.
[3] MacLennan, *loc. cit.*, p. 244.
[4] *Id.*, *ibid.* pp. 177, 275.
[5] Ott. Müller and Bachofen (quoted by A. Giraud-Teulon, pp. 283, 284).

as guardian, and when it pleases the gods, she preserves it." The Orestes of Euripides takes up the same theory when he says to Tyndarus—"My father has begotten me, and thy daughter has given birth to me, as the earth receives the seed that another confides to it; without a father, there could be no child." These patriarchal theories naturally consecrated the slavery of woman. The laws of Solon still recognised the right of women to inherit, in default of paternal relations of the male sex, to the fourth degree, but in the time of Isæus the law refused to the mother any place among the heirs of her son.[1]

In fact, throughout the historic period the Greco-Roman world is patriarchal. In Greece and at Rome woman is despised, subjected, and possessed like a thing; while the power of the father of the family is enormous. It is especially so at Rome, where, nevertheless, the family is not yet strictly consanguineous, for it includes the wife, children, and slaves, and where agnation has for its basis the *patria potestas.* "All those are agnates who are under the same paternal power, or who have been, or who could be, if their ancestor had lived long enough to exercise his empire. . . . Wherever the paternal power begins, there also begins kinship. Adoptive children are relations. . . . A son emancipated by his father loses his rights of agnation."[2] At the commencement of Roman history, we see, therefore, clans, or *gentes*, composed of families, of whom some are patrician—that is, able to indicate their agnatic lineage—and the others plebeian. The "justæ nuptiæ" are for the former; the latter unite without ceremony, *more ferarum.* The family is possessed by the *pater familias;* he is the king and priest of it, and becomes one of its gods when his shade goes to dwell among the manes. In this last case, the family simply changes masters; "the nearest agnate *takes the family,*" says the law of the Twelve Tables. Something very similar existed in Greece, for we have seen that at Athens the right of marrying their sisters, left to brothers who were heirs, was not even exhausted by a first marriage.[3]

[1] Morgan, *Ancient Societies,* p. 548.—MacLennan, *Primitive Marriage,* p. 255.
[2] H. Maine, *Ancient Law,* pp. 141, 142.
[3] Isæus, *Heritage of Menecles.*

The institution of individual, or rather familial property, that of masculine filiation, and of patriarchal monogamy, dismembered the *gens*, which at length became merely nominal. The law of the Twelve Tables, however, still decides that the succession shall be vacant if, at the death of the father, the nearest agnate refuses to "take the family," and in default of an agnate the *gentiles* shall take the succession. The nominal *gens* persisted for a long time in the ancient world; thus every Roman patrician had three names—that of his *gens*, that of his family, and his personal name.[1] At Athens, in the time of Solon, the *gens* still inherited when a man died without children.

The long duration of Greco-Roman society enables us to follow the whole evolution of the family in it. It would be going beyond the facts to affirm the existence of a still confused consanguinity in the ancient *gens;* but it seems very probable that this *gens* first adopted the maternal and then the paternal family, which last became somewhat modified, in the sense of the extension of feminine rights. This extension was slow, and it was not till the time of Justinian that equal shares were given to sons and daughters in succession, or even that widows were entrusted with the care of their children.

VII. *The Family in Barbarous Europe.*

Organisation into clans more or less consanguineous, then into phratries and tribes, seems natural in many primitive societies; and outside the Greco-Roman world the barbarous populations of Europe had all adopted it. In these clans, has kinship begun by being confused? Has exogamy prevailed? On these particular points precise information is wanting; doubtless evolution cannot everywhere have been uniform. One thing is, however, certain, namely, that the Celtic populations have preserved the institution of the clan much longer than any others. In Wales and Ireland the clan was still the social unit; it was responsible for the crimes of its members, paid the fines and received the compensations. In Ireland, and surely elsewhere, there

[1] A. Giraud-Teulon, *loc. cit.*, p. 372.

was an *ager publicus* allotted amongst the members of the clans. Individualism prevailed in the end, as it did everywhere. A certain portion of the common soil, reserved in usufruct for the chiefs, was at last seized by them as individual property; but all the members of a clan were reputed as of kin, and at a man's death his land was allotted by the chief amongst the other families of the clan or *sept.*[1] These clans, however, were anything but exogamous, if we may believe Strabo, who affirms that the ancient Irish, like the Mazdeans, married, without distinction, their mothers and sisters.[2] Irish marriage had in no way the strictness of the Roman marriage; temporary unions were freely allowed, and customs having the force of law safeguarded the rights of the wife.[3] Other European barbarians, on the contrary, were exogamous, and prohibited under pain of severe punishment, as whipping or drowning, marriage between members of the same clan.[4] The *mir* of the southern Slavs may be considered as a survival of these ancient barbarous clans, sometimes endogamous, sometimes exogamous.

In becoming subdivided into families, have these little primitive clans adopted maternal filiation? This is possible; but when they came in contact with the Roman world the greater number had already the paternal family. Let us notice, however, that the Irish law, far from subjecting the mother, accorded her a position equal to that of the father.[5] Let us also recall the following passage of Tacitus[6] *à propos* of the Germans: "The son of a sister is as dear to his uncle as to his father; some even think that the first of these ties is the most sacred and close; and in taking hostages they prefer nephews, as inspiring a stronger attachment, and interesting the family on more sides." We may add to this that in Germany the mother could be the guardian of her children;[7] that the Salic law, *non emendata*,

[1] H. Maine, *Early Institutions*, pp. 113, 116, 124.
[2] Strabo, iv. 4.
[3] H. Maine, *loc. cit.*, p. 76.
[4] Bell, *Journal of a Residence in Circassia*, vol. i. p. 347.
[5] H. Maine, *loc. cit.*
[6] *De moribus Germanorum*, xx.
[7] Laboulaye, *Recherches sur la condition civile et politique des femmes*, etc., pp. 166, 167.

admitted to the succession, in default of children, the father and mother, the brothers and sisters, and then the sister of the mother in preference to that of the father. Let us remember, also, that in Slav communities women have a right to vote, and may be elected to the government of the community;[1] but this is still a long way off the matriarchate, or even uterine filiation. The Saxon law (tit. vii.), the Burgundian law (tit. xlv.), and the German law (tit. lvii. and xcii.) only admit women to the succession in default of male ascendants; the law of the Angles prefers paternal agnates, even to the fifth degree, before women.

To sum up, there are only two precise testimonies that may be quoted in favour of the ancient existence of maternal filiation among the barbarians of Europe—that of Strabo, relating to the Iberians; and the case of the Picts, amongst whom the lists of kings show that fathers and sons had different names, and that brothers succeeded instead of sons.[2] From this absence, or rather rarity, of proofs in favour of the ancient existence of the maternal family among the barbarians of Europe, must we conclude that it has never existed? Not at all; we can only say that this ancient filiation is possible, and even probable, but as yet insufficiently established.

What cannot be disputed is, that always and everywhere peoples who are in process of civilisation have adopted the paternal family, according even excessive powers to the father of the family. What is probable is, that in the majority of cases paternal filiation has succeeded to maternal filiation and to more or less confused familial forms. Is this paternal or even patriarchal family the final term of familial evolution? Has evolution, never as yet arrested in its course, said its last word in regard to marriage and the family?

[1] A. Giraud-Teulon, *loc. cit.*, pp. 41, 42.
[2] MacLennan, *Primitive Marriage*, p. 101.

CHAPTER XX.

MARRIAGE AND THE FAMILY IN THE PAST, THE PRESENT, AND THE FUTURE.

I. *The Past.*—Sociology and evolution—Sociology and scientific method—The biological reason of marriage and the family—Primitive forms of marriage—Its evolution—Consanguineous primitive groups—The evolution of the family—The stages of this evolution—From communism to individualism—Advantages of the primitive clan—Polygamy and statistics of births.

II. *The Present.*—Present marriage in Europe—The dangers of celibacy according to A. Bertillon—They marry who can—Imperfect categories of celibates—Money and matrimony—Selection by money—Marriages by purchase.

III. *The Future.*—Prehistoric peoples still surviving—Progress is the law of the world—The meaning of matrimonial and familial evolution—Sociological rhythms—Future collective societies—The family and society—Progress of conjugal discord—The marriage of the future—Herbert Spencer and Montaigne—Slowness of social evolutions—Conservatives and innovators—Nothing dies; everything is renewed.

I. *The Past.*

In the preceding chapters I have attempted to describe how men of all countries and all races have more or less constituted and organised their marriage and their family, and for this purpose I have patiently classified a multitude of facts collected singly by an army of observers.

Moreover, in conformity with the method of evolution, and in order not to neglect the most distant sources, I have prefaced my minute inquiry into marriage and the family among men by an investigation of the same kind in regard to animals. Man is neither a demi-god nor an angel; he is a primate more intelligent than the others, and his

relationship with the neighbouring species of the animal kingdom is more strongly shown in his psychic than in his anatomical traits.

More than once, I fear, the accumulation of detailed facts which forms the groundwork of this book may have fatigued my readers; but this is the only condition on which it is possible to give a solid basis to sociology. It is, in fact, nothing less than a matter of creating a new science. We are scarcely beginning to be really acquainted with mankind, to take a complete survey of it in time and space. Now this would be quite impossible without the help of comparative ethnography. We must regard the existing inferior races as survivals, as prehistoric or proto-historic types that have persisted through long ages, and are still on different steps of the ladder of progress; it is this view alone which we shall find suggestive and enlightening; and it is in strict correlation with the method of evolution, to which, indeed, it owes its value.

The innumerable dissertations on the history of marriage and of the family which appeared previous to the rise of scientific method, have necessarily been devoid of accuracy and especially of breadth of thought. A thick veil concealed the real origin of these institutions; religious legends, that had become venerable on account of their antiquity, paralysed scientific investigation. To submit our social institutions to the great law of evolution, by means of disagreeable researches, was not to be tolerated by public opinion. In fact, if marriage and the family have been constantly modified in the past, we cannot maintain that these institutions will remain for ever crystallised in their present state. Until this revolutionary idea had taken root and become sufficiently acclimatised in public opinion, all so-called social studies were scarcely more than empty lucubrations. From time to time, no doubt, a few bold innovators, braving scoffs or even martyrdom, have dared to construct theories of new societies; but, being insufficiently informed, they could only create Utopias contemned by the mass of the public. Scientific sociology builds its edifice stone by stone; its duty is to bind the present to the most distant past; its honour will lie in furnishing a solid basis of operation to

the innovators of the future; but this new branch of human knowledge can only grow by submitting to the method of the natural sciences. Before everything else, it is important to classify the facts that have been observed. This course is imperative. It is dry, and lends itself with difficulty to oratorical effusions, but no other path can lead to the truth. My constant anxiety has been to be faithful to it, and as an anthropologist I have especially borrowed my materials from ethnography. Step by step, and following as much as possible the hierarchic order of human races and of civilisations, I have described the modes of marriage and of the family adopted by the numerous varieties of the human type; I have endeavoured to note the phases of their evolution, and to show how superior forms have evolved from inferior ones. Now that I am at the end of my inquiry, it will be well to sum up clearly its result.

The prime cause of marriage and the family is purely biological; it is the powerful instinct of reproduction, the condition of the duration of species, and the origin of which is necessarily contemporaneous with that of primal organisms, of protoplasmic monads, multiplying themselves by unconscious scissiparity. By a slow specialisation of organs and functions, in obedience to the laws of evolutionary selection, various animal types have been created; and when they have been provided with separate sexes and conscious nervous centres, procreation has become a tyrannic need, driving males and females to unite in order to fulfil the important function of reproduction.

In this respect man is strictly assimilable to the other animals, and with him as with them all the intoxication of love has for its initial principle the elective affinity of two generating cellules of different sex. So far, this is mere biology, but it results, among superior animals, in sociological phenomena, in pairings which endure after the satisfaction of procreative needs, and produce in outline some forms of human marriage, or rather, of sexual union in humanity—namely, promiscuity, polygamy, and even monogamy. Our most primitive ancestors, our precursors, half men and half apes, have certainly had extremely gross customs, which are still in great measure preserved among the least developed races.

The study, however, of contemporary savage societies proves to us that absolutely unbridled promiscuity, without rule or restraint, is very rare even in inferior humanity. In exceptional cases, individuals of both sexes may have abandoned themselves, of common accord, to promiscuity, as did the Polynesian *areoïs;* but these instances relate to acts of debauchery, and not to a regulated social condition compatible with the maintenance of an ethnic group. The conjugal form nearest to promiscuity is the collective marriage of clan to clan—as, for example, that of the Kamilaroi, amongst whom all the men of one clan are reputed brothers to each other, and at the same time husbands of all the women of a neighbouring clan, reputed also sisters to each other. Other varieties of sexual association are more common, and may be arranged under the general heads of promiscuity, polygamy, polyandry, and monogamy. We hear also of temporary unions, marriages for a term, and partial marriages concluded at a debated price for certain days of the week only, etc. Every possible experiment, compatible with the duration of savage or barbarous societies, has been tried, or is still practised, amongst various races, without the least thought of the moral ideas generally prevailing in Europe, and which our metaphysicians proclaim as innate and necessary. Having elsewhere demonstrated at length the relativity of morality, I will not go over the ground again, but will quote on this point some lines of Montaigne:—"The laws of conscience, which we pretend to be derived from nature, proceed from custom; every one having an inward veneration for the opinions and manners approved and received amongst his own people, cannot without very great reluctancy depart from them, nor apply himself to them without applause. . . . The common fancies that we find in repute everywhere about us, and infused into our mind with the seed of our fathers, appear to be most universal and genuine. From whence it comes to pass, that whatever is off the hinges of custom is believed to be also off the hinges of reason."[1] The partial marriages of the Hassinyeh Arabs are surely off the hinges of our custom; and it is the same with polyandry, which borders on these partial marriages,

[1] Montaigne, *Essays; Custom.*

but is much more widely spread. Like everything else, polyandric marriage has evolved, from its most complete form, that of the Naïrs, to the polyandry in use in Thibet, which already inclines towards monandry and the paternal family. Primitive polyandry has easily arisen from the marriage by classes practised by many savage clans; but most often it is polygamy which has sprung from it. And the latter must frequently have been established from the first in primitive hordes, simply by the right of the strongest.

Man may be monogamous in the very lowest degree of savagery and stupidity; certain animals are so; but in humanity it is more often the instinct of polygamy which predominates; and therefore, when in the course of the progressive evolution of societies monogamy at length became moral and legal, men have been careful to soften its rigour by maintaining together with it concubinage and prostitution, and by generally leaving to the husband the right of repudiation, which has nearly always been refused to the wife. This injustice appeared quite natural, for as the wife had usually been captured or bought, she was considered as the property of the man, and held in strict subjection. At length, in its last form, monogamic marriage, which had at first been the association of a master and a slave, tended more and more to become the union of two persons, living on a footing of equality.

The family has undergone a similar evolution. Apart from a few exceptional cases of precocious monogamy (Veddahs, Boshimans, etc.), ethnography shows us the greater number of savage races living in little consanguine groups, in which the kinship is still confused and the solidarity strong. The degrees of consanguinity are not well defined; real kinship is easily confounded with fictitious kinship, and classes of relations are created, ranged under the same title, although very differently united by ties of blood. The woman nearly always bears children for her group, or clan, and this clan is very often exogamic; this exogamy is practised from clan to clan, and only within the tribe. There is no absolute rule, however, and it is not unusual to see endogamy elbow exogamy.

In the large and confused family of the clan, all the

members of which were bound together by a strict solidarity of interests and a real or fictitious kinship, the restricted family became gradually established by a reaction of individual interests. On account of the more or less complete confusion of sexual unions, the first to become detached from the consanguine clan was the maternal family, based on uterine filiation, the only filiation capable of sure proof; but the great association of all the members of the clan still existed. By the simple fact of birth in this little ethnic group, the individual had rights to the territory of the clan and his share in the common resources; his clan were bound to give him aid, assistance, and, at need, vengeance also. In proportion as the family assumed more distinct proportions in the clan, it tended to become separate from it, and then, nearly always, it was based not on maternal but on paternal filiation. This did not come to pass in a day; it took a long time to arrive at the point of attributing to such or such a man the ownership of one or more women and their progeny. The ridiculous ceremonial of the couvade was probably invented during this period of transition, when it was no easy matter for a man to obtain the recognition of his paternal title and rights by the other men of the clan. For a long time the maternal family resisted the enthronisation of the paternal family, and here and there it succeeded in maintaining its existence, and in serving as a basis for the transmission of inheritance. For, whether paternal or maternal, the institution of the family, when well consolidated, had for its result the parcelling out of the possessions of the ancient clans, and the creation of familial or individual property on the ruins of the ancient common property. Finally, nothing more remained of the clan, or *gens*, but the sign or *totem*, the name, and a kinship, also nominal, between the various families that had come from it.

The system and the vocabulary of kinship were then renewed; to the classificatory mode, grouping the relations by classes, without much care as to consanguinity, has succeeded the descriptive mode, which carefully specifies the degree of consanguinity of each person, and distinguishes a direct line from collateral lines, and in which each individual is the centre of a group of relations.

In a remarkable book, which has not yet had all the success it deserves, Lewis Morgan believes he has recognised five stages in the evolution of the family: 1st, the family is consanguineous—that is to say, founded on the marriage of brothers and sisters of a group; 2nd, several brothers are the common husbands of their wives, who are not sisters; 3rd, a man and woman unite, but without exclusive cohabitation, and with faculty of divorce for one or the other; 4th, then comes the pastoral family of the Hebrews, the marriage of one man with several women; but this patriarchal form has not been universal; 5th, at last appeared the family of civilised societies, the most modern, characterised by the exclusive cohabitation of one man and one woman. Not taking this classification too literally, and reserving a place for varieties and exceptions, we have here five stages which mark tolerably well the evolution of the family in humanity.

The moral direction of this slow transformation is evident; it proceeds from a communism more or less extensive to individualism; from the clan, where all is solidarity, to the family and the individual, having their own interests, which are as distinct as possible from those of other families and other individuals. Each one has endeavoured to get for himself as large a share as possible of that which was formerly held in common; each man has aimed at obtaining a more and more exclusive right over property, wife, and children. From these appetites, more economic than ethereal, have at length proceeded the patriarchal family, monogamy, and familial property, and later, individual property;[1] the *régime* of the family and that of property have evolved in company. But this transformation has been effected by extremely slow degrees; for a long time the new *régime* bore the mark of the old one in certain rights reserved to the clan, in certain prohibitions, in certain obligations, which still imposed some solidarity on individuals—as, for example, the legal injunction to help a man in peril, to hasten to the assistance of a village plundered by robbers, the general duty of hospitality, etc.—all of them precepts formulated by the codes of Egypt and India, and

[1] A. Giraud-Teulon, *Orig. du Mariage*, etc., p. 428.—L. Morgan, *Ancient Societies*, p. 389.

still to be found in Kabylie, and which have disappeared from our frankly individualistic, or rather egoistic, modern legislations.

It is indisputable that this evolution has everywhere coincided with a general progress in civilisation, and the advance has been sensibly the same among the peoples of all races, on the sole condition that they should have emerged from savagery. Everywhere, in the end, the paternal family and monogamic marriage have become a sort of ideal to which men have striven to conform their customs and institutions. It has very naturally been concluded that these last forms of the family and of conjugal union have an intrinsic sociologic superiority over the others, that in all times and places they strengthen the ethnic group, and create for it better conditions in its struggle for existence. But this reasoning has nothing strict in it; civilisation is the result of very complex influences, and if a certain social practice has been adopted by inferior races, it does not logically follow that it is, for that reason only, bad in itself. What seems indisputable is, that man tends willingly towards individualism, and yields himself up to it with joy as soon as that becomes possible to him, thanks to the general progress of civilisation. At the origin of civilisations, in a tribe of savages, surrounded with perils, and painfully struggling for existence, a more or less strict solidarity is imperative; the co-associates must necessarily form as it were a large family, in which a more or less communal *régime* is essential. The children, the weak ones, and the women have more chance of surviving if in some measure they belong to the entire clan; perpetual war soon cuts down a great number of men; it is therefore necessary that their widows and children should find support and protection without difficulty, and the *régime* of the clan, with its wide and confused kinship, lends itself better to this helpful fraternity than a strict distinction of *tuum* and *meum* applied to property and persons. The same may be said of patriarchal polygamy, which often flourished on the ruins of the clan. For this *régime* to become general, it is necessary that, in the ethnic group, the proportion of the sexes should be to the advantage of the feminine sex; in this case it is imperative, and evidently becomes favourable to the maintenance

of the social body; in fact it guarantees the women against desertion, augments the number of births, and assures to the children the care of one or more adoptive mothers, if the real mother happens to die. The opinion of Herbert Spencer, who quite *à priori* attributes to monogamy a diminution in the mortality of children,[1] is a most hazardous one. By the last census taken in Algeria we learn, not without surprise, that the increase in the indigenous Mussulman and polygamic population was much superior to that of the most prolific of the European monogamous states. Polygamy may therefore have its utilitarian value, and this is the case as soon as it adapts itself to the general conditions of social life.

II. *The Present.*

It is many centuries since Europe adopted monogamic marriage as the legal type of the sexual union. That there exists by the side of regular marriage a considerable margin, in which are still found nearly all the other forms of sexual association, we do not deny; but in France, for example, two-thirds of the population live so entirely under the *régime* of legal monogamy, that it would be evidently superfluous to describe it here; it is, in substance, the Roman marriage, the bonds of which Christianity has striven to lighten. In the general opinion, marriage such as our laws and customs require it to be, is the most perfect type possible of conjugal union; and this current appreciation has not been a little strengthened by a learned treatise, frequently quoted, and of which I cannot dispense with saying a few words.

In 1859, a justly celebrated demographer, whom I have the honour to call friend, Dr. Adolphe Bertillon, published a monograph on marriage, which made a great sensation.[2]

This work, bristling with figures, scrupulously collected and strictly accurate, proves or seems to prove that the celibate third of the French population is, by reason of its celibacy, struck with decay, and plays the part of an inferior

[1] *Sociology*, vol. ii. p. 304.

[2] Article, "Marriage," in the *Dictionnaire encyclopédique des sciences médicales.*

race by the side of the married two-thirds. In comparative tables, which are extremely clear, A. Bertillon follows step by step the different fates of the married and unmarried, and he shows us that at every age the celibate population is struck by a mortality nearly twice as great as the other; that its births merely make up 45 per cent. of its annual losses; that it counts every year twice as many cases of madness, twice as many suicides, twice as many attempts on property, and twice as many murders and acts of personal violence. Consequently, the State has to maintain for this celibate population twice as many prisons, twice as many asylums and hospitals, twice as many undertakers,[1] etc. These revelations, absolutely true as raw results, caused a great commotion in the little public specially occupied with demography and sociology. Their alarm was soon calmed.

From his interesting work A. Bertillon had drawn conclusions which were very doubtful, taking surely the effect for the cause, by attributing the inferiority of the celibate population solely to its celibacy. If this be so, we have only to marry these weak ones in order to raise them; but the superiority of the married population, which on the whole is indisputable, does not necessarily imply the superiority of the marriage state.

It is in consequence of economic hindrances, and of physical or psychical inferiority, that, in the greater number of cases, people resign themselves to celibacy. Those who wish to marry cannot always do so, and A. Bertillon knew better than any one that the number of marriages, the age at marriage, the number of children by marriage, etc., depend in the mass not on individual caprice, but on causes altogether general. Setting aside money considerations—which are so powerful, and to which I shall presently return—and confining our calculation to persons of normal endowment, it is probable that there is more energy, more moral and intellectual vitality, in those who bravely face the risk of marriage than in the timid celibates; but it is certain that the celibate population, taken as a whole, includes the majority of the human waste of a country. At the time when A. Bertillon wrote his

[1] A. Bertillon, *loc. cit.*

learned treatise, in 1859, statistics prove the existence in France of 370,018 infirm persons,[1] of whom the greater number were evidently condemned to celibacy by the very fact of their infirmity. On the other hand, it is probable that among the beggars, properly so called, there is a large proportion of celibates, without counting the infirm; now in 1847 there were 337,838 beggars in France.[2]

To these lists of unwilling celibates must be added, especially, the virile population in the army, the mortality in which was, as we well know, double that of the civil population. Now, on the 1st January 1852, the French army counted 354,960 men.[3] To these matrimonial non-values, contributing a larger tithe to sickness and death, must be further joined the celibates from religious vows. The census shows 52,885 of the latter. Without any ill-feeling towards the Catholic clergy, we may be allowed to hold the opinion that the very fact of a man's vowing himself to celibacy—that is to say, of setting at nought the desires of nature and the needs of the society of which he forms a part—merely for metaphysical motives, often implies a certain degree of mental inferiority. The special statistics of the little ecclesiastical world are not published in France; but M. Duruy having once had the happy thought of ascertaining from the judicial pigeonholes the number of crimes and misdemeanours committed by the members of religious orders engaged in teaching, compared with those of lay schoolmasters, during a period of thirty months, the result of the inquiry showed that, proportionally to the number of schools, the former were guilty of four times as many misdemeanours and twelve times as many crimes as the latter.[4] Short as the period of observation was, this enormous difference gives matter for reflection, although it may not have the value of a law.

But the principal causes which influence matrimony are the greater or less facility of existence, and the extreme importance attached to money. As a general rule, life and death tend to balance each other, and the populations whose mortality is great have, as compensation, a rich birth-

[1] M. Block, *Statistique de la France*, t. ii. p. 55.
[2] *Id.*, *ibid.* p. 298. [3] *Id.*, *ibid.* p. 506.
[4] A. Bertillon, article "Marriage," *loc. cit.*

rate. We invariably see the number of marriages and births increasing after a series of prosperous years, and *vice versâ*. General causes have naturally a greater influence on the population living from hand to mouth. The well-to-do classes escape this, and we even find that the chances of marriage for the rich increase during years of high prices.[1]

We can scarcely attribute to anything else but an excessive care for money and a forethought pushed to timidity some very disquieting traits in our marriage and birth rates in France. I will merely recall, by the way, the continually decreasing excess of our births, which, if not stopped by radical social reforms, can only end in our final decay.

The fear of marriage and the family is the particular feature of French matrimoniality. The desirable age for marriage, says A. Bertillon,[2] is from twenty-two to twenty-five for men, and from nineteen to twenty for women. In England more than half the marriages for men (504 in 1000) and nearly two-thirds of those of women are contracted before the age of twenty-five. Now, this is only the case in France for 0.29, and in Belgium for 0.20 of the marriages. A demographical phenomenon of the same kind is observed in Italy, where only 232 men out of 1000 marry before the age of twenty-five.[3] At Paris, where the struggle for existence is more severe, and where the care for money is more predominant, late marriages abound, and it is only above the age of forty for men and thirty-five for women that the marriage rate equals, and even exceeds, that of the whole of France;[4] it is self-evident that the result of this must be a decrease in the total of births by marriage. Whether these facts proceed from the growing difficulties of existence, or from a fear, always augmenting also, of trouble and care, or from these two causes combined and mutually strengthening each other, the consequence is the same: marriages are becoming more and more simple commercial transactions, from whence arises the worst and most shameful of selections—selection by money. As a moral demographer, A. Bertillon thunders against what he calls "the system of dower" more

[1] A. Bertillon, article "Marriage," *loc. cit.*
[2] *Id.*, *ibid.* [3] *Id.*, *ibid.* [4] *Id.*, *ibid.*

peculiar to the Latin races, since we get it from Rome, where recourse was doubtless had to it in order to emancipate patrician women from strict conjugal servitude. But the remedy has become an evil, and it is surely to the love of the dowry rather than to "the beautiful eyes of the casket" that must be attributed a whole list of true marriages by purchase, much more common in our own country than elsewhere. Sometimes it is old men who conjugally purchase young girls, and sometimes old women who buy young husbands. I will especially notice this last category of marriages by purchase. As regards them, France is unworthily distinguished beyond other nations. In our tables of statistics, for example, the proportionate number of marriages between bachelors from eighteen to forty years and women of fifty and upwards, is ten times greater than in England.[1]

Marriages with Women of Fifty Years and upwards.
(*In a million marriages.*)

IN FRANCE.		IN ENGLAND.	
Age of Bachelors.	Number of Marriages.	Age of Bachelors.	Number of Marriages.
18 to 20 years ...	64	16 to 20 years ...	0
20 „ 25 „ ...	109	20 „ 25 „ ...	5
25 „ 30 „ ...	151	25 „ 30 „ ...	12
30 „ 35 „ ...	188	30 „ 35 „ ...	22
35 „ 40 „ ...	257	35 „ 40 „ ...	40
	769		79

We must remark, in comparing these tables, that the first group, including the married men from eighteen to twenty years with women of fifty and upwards, is unknown in England; and that the second group, that of the married men of twenty to twenty-five years with women of fifty years and upwards, is scarcely represented. The comparison is not flattering for us. It is important to note, also, that these figures only refer to first marriages. Tables of the same kind, showing the marriages between young

[1] A. Bertillon, *loc. cit.*

girls and old men, or between aged widows and young men, would add to our confusion, and bring to our thoughts the picturesque exclamation which Shakespeare puts into the mouth of King Lear—"Fie! Fie! Fie! Pah! Pah! Give me an ounce of civet, good apothecary, to sweeten my imagination."[1]

Marriages with Men of Sixty Years and upwards.

IN FRANCE.		IN ENGLAND.	
Age of Girls.	Number of Marriages.	Age of Girls.	Number of Marriages.
15 to 20 years ...	94	15 to 20 years ...	2
20 „ 25 „ ...	139	20 „ 25 „ ...	15
25 „ 30 „ ...	176	25 „ 30 „ ...	32
30 „ 35 „ ...	242	30 „ 35 „ ...	49
	651		98

III. *The Future.*

What will marriage and the family become in the future? For one who is not a prophet by supernatural inspiration, it is hazardous to make predictions. The future, nevertheless, is born from the womb of the past, and, after having patiently scrutinised the evolution of bygone ages, we may legitimately risk a few inductions with regard to the ages to come. Doubtless the primitive forms of marriage and the family will persist, if not for ever, as Herbert Spencer believes, at least for a very long time among certain inferior races, protected and at the same time oppressed by climates which the civilised man cannot brave with impunity. These backward prehistoric races will continue to subsist in unwholesome regions, as witnesses of a distant past, recalling to more developed races their humble origin. But with these last the form of marriage and of the family, which has incessantly been evolving, cannot evidently remain immutable in the future. The little human world knows no more repose than the cosmic environment from whence it has sprung, and which encloses it. Among

[1] *King Lear*, Act iv. Sc. 6.

peoples, as among individuals, vital concurrence and selection do their work. Now, when it is a matter of institutions so essentially vital as marriage and the family, the least amelioration is of the highest importance; it has an influence on the number and quality of fresh generations, and on the flesh and spirit of peoples. All things being equal, the preponderance, whether pacific or not, will always fall to the nations which produce the greatest number of the most robust, most intelligent, and best citizens. These better endowed nations will often absorb or replace the others, and always in the long run will be docilely imitated by them. Ethnography and history show us the true sense of evolution in the past. Societies have constantly advanced from confusion to distinction. Monogamic marriage has succeeded to various more confused modes of sexual association. So also the family is the ultimate residuum of vast communities of ill-defined relationships. In its turn, the family itself has become restricted. At first it was still a sort of little clan; and then it was reduced to be essentially no more than the very modest group formed by the father, the mother, and the children. At the same time the familial patrimony crumbled, just as that of the clan had been previously parcelled out; it became individual. What is reserved for us in the future? Will the family be reconstituted by a slow movement of retrogression, as Herbert Spencer believes?[1] Nothing is less probable.

Institutions have this in common with rivers, that they do not easily flow back towards their source. If they sometimes seem to retrograde, it is generally a mere appearance, resulting from a sort of sociologic rhythm. In truth, the end and the beginning may assume a superficial analogy, masking a profound difference. Thus the unconscious atheism of the Kaffirs has nothing in common with that of Lucretius, and nothing can be less analogous than the anarchic equality of the Fuegians and American individualism. If, as is probable, the individualist evolution, already so long begun, continues in the future, the civilised family—that is to say, the last collective unit of societies—must again be disintegrated, and finally subsist no longer except in genealogy scientifically registered with ever-increasing care; for it is,

[1] *Sociology*, vol. ii. p. 418.

and always will be, important to be able to prejudge how "the voice of the ancestors" may speak in the individual. But even from the crumbling of the family will result the reconstitution of a larger collective unit, having common interests and resuscitating under another form that solidarity without which no society can endure.

But this new collectivity will in no way be copied from the primitive clan. Whether it be called State, district, canton, or commune, its government will be at once despotic and liberal; it will repress everything that would be calculated to injure the community, but in everything else it will endeavour to leave the most complete independence to individuals. Our actual family circle is most often very imperfect; so few families can give, or know how to give, a healthy, physical, moral, and intellectual education to the child, that in this domain large encroachments of the State, whether small or great, are probable, even desirable. There is, in fact, a great social interest before which the pretended rights of families must be effaced. In order to prosper and live, it is necessary that the ethnic or social unit should incessantly produce a sufficient number of individuals well endowed in body, heart, and mind. Before this primordial need all prejudices must yield, all egoistic interests must bend.

But the family and marriage are closely connected; the former cannot be modified so long as the latter remains unchanged. If the legal ties of the family are stretched, while social ties are drawn closer, marriage will have the same fortune. For a long time, more or less silently, a slow work of disintegration has begun, and we see it accentuated every day. Leaving aside morals, which are difficult to appreciate, let us simply take the numerical results which statistics furnish us with in regard to divorce and illegitimate births.

In the five countries compared as follows, the increase of divorces has been continuous and progressive during thirty years, and in France the number has doubled.

The number of illegitimate births followed simultaneously an analogous progression. In France, during the period 1800-1805, it was 4.75 per 100; now, wrote M. Block in 1869, it has gradually risen to 7.25 per 100.[1] At the same

[1] M. Block, *Europe politique et sociale*, p. 204.

time, and as a consequence of this demographic movement, the proportion of free unions has considerably increased.

INCREASE OF DIVORCES.[1]

The frequency of divorces in 1851-55 *being* 100, *what has it become during the following years?*

	France. Separations.	Saxony. Divorces.	Belgium. Divorces.	Holland. Divorces.	Sweden. Divorces.
1851-55	100	100	100	100	100
1856-60	128	83	140	100	98
1861-65	150	75	160	112	109
1866-70	190	72	190	115	113
1871-75	163	80	280	139	132
1876-80	225	105	420	151	161

A. Bertillon calculated this proportion for Paris at about a tenth. But these results are simply the logical continuation of the evolution of marriage. It is in the sense of an ever-increasing individual liberty, especially for woman, that this evolution is being effected. Between men and women the conjugal relations have at first been nearly everywhere from masters to slaves; then marital despotism became slowly attenuated, and at Rome, for example, where the gradual metamorphosis may be traced during a long historic period, the power of the *paterfamilias*, which at first had no limit, at length became curbed; the personality of the woman was more and more accentuated, and the rigid marriage of the first centuries of the Republic was replaced under the Empire by a sort of free union. Doubtless this movement necessarily retrograded under the influence of Christianity; but, as always happens in the logic of things, it has, nevertheless, resumed its course; it will become more and more evident, and will surely pass the point at which it stopped in imperial Rome.

Monogamic marriage will continue to subsist; it is the last-comer, and much the most worthy, and besides, the balance of the sexes makes it almost a necessity; but it will have more and more equality in it, and less and less of legal restraint. On this point I am glad to find myself in

[1] J. Bertillon, *Étude démographique du divorce*, p. 61.

accord with the most celebrated of modern sociologists, Herbert Spencer, who is not very bold, however, on these delicate points. "In primitive phases," he says, "while permanent monogamy was developing, union in the name of the law—that is, originally, the act of purchase—was accounted the essential part of the marriage, and union in the name of affection was not essential. In the present day union in the name of the law is considered the most important, and union by affection as less important. A time will come when union by affection will be considered the most important, and union in the name of the law the least important, and men will hold in reprobation those conjugal unions in which union by affection is dissolved."[1] Montaigne once wrote: "We have thought to make our marriage tie stronger by taking away all means of dissolving it; but the more we have tightened the constraint, so much the more have we relaxed and detracted from the bond of will and affection."[2]

It is therefore probable that a future more or less distant will inaugurate the *régime* of monogamic unions, freely contracted, and, at need, freely dissolved by simple mutual consent, as is already the case with divorces in various European countries—at Geneva, in Belgium, in Roumania, etc., and with separation in Italy. In these divorces of the future, the community will only intervene in order to safeguard that which is of vital interest to it—the fate and the education of the children. But this evolution in the manner of understanding and practising marriage will operate slowly, for it supposes an entire corresponding revolution in public opinion; moreover, it requires as a corollary, profound modifications in the social organism. The *régime* of liberty in marriage and the disintegration of our actual familial type are only possible on condition that the State or the district, in a great number of cases, is ready to assume the *rôle* of guardian and educator of children; but, before it can take on itself these important functions, it must have considerable resources at its disposal which to-day are wanting. In our present *régime*, the family, however defective it may be, still constitutes the

[1] Herbert Spencer, *Sociology*, vol. ii. p. 410.
[2] Montaigne, *Essays*, vol. ii. p. 15.

safest, and almost the only shelter for the child, and we cannot think of destroying this shelter before we have constructed a larger and better one.

Transformations so radical as these cannot evidently be wrought instantaneously, by a mere change of view, after the fashion of political revolutions. Nothing is more chimerical than to fear or to hope for the sudden destruction of our actual forms of marriage, of the family, and of property; but there is no doubt that all this is tottering. The alarm and the lamentations of so many moralists, both lay and religious, are not therefore without some foundation. Societies have always evolved, but the rapidity of this evolution is accelerating; it is, in some sort, proportionate to the square of the time elapsed. I fear that in the eyes of our descendants we shall appear slaves of routine, as our ancestors are in ours.

For those who have not firmly rallied to the side of the great law of progress, the future is full of terror. It has always been thus; the apostles of progress have always had to overcome the resistance of the sectaries of the past. From time immemorial, certain Dyak tribes were accustomed to fell trees by chopping at the trunk with a hatchet, perpendicularly to the fibres. One day some revolutionaries proposed making V-shaped cuttings, in the European method. The Dyak conservative party, inspired by the regard due to custom, were wroth at this, and punished the innovators by a fine.[1] Nevertheless, I do not doubt that the new method has triumphed in practice; it was found advantageous. But this incident is, in miniature, the history of all transformations, small or great.

It is very certain that in societies where marriage by groups half polyandric and half polygamic had been instituted for centuries, the bold agitators who attempted to substitute individual union were considered at first as dangerous revolutionaries, and those who dismembered into families the communal clan only succeeded at the cost of great difficulty and peril. Thus in the *Oresteia* of Æschylus, of which I have spoken in the last chapter, the chorus of the Eumenides gives voice to the protestations of public opinion against the establishment of the paternal family in Greece.

[1] *Journal Ind. Archip.*, vol. ii. p. 54.

The prospects which alarm the conservative spirits of to-day are, in truth, but the last consequence of that ancient evolution. Statisticians who are not evolutionists prove, without understanding it, that the indissolubility of marriage becomes more and more intolerable for individuals.[1] There is, as it were, a tide of discord continually rising which renders conjugal stability more and more precarious. This grievous state of things distresses, on the other hand, the moralists, for neither do they see the reason of it. The surprise of the former is not more justified than the lamentation of the latter. It is nothing more than the future, which, with its habitual effrontery, persists in rising out of the past. The faint-hearted cry to us that everything is coming to an end. It is not so; on the contrary, everything is about to be renewed. From the most distant stone age, the history of humanity has only been a long series of regenerations. Far from mourning when the world seems to be entering a period of fresh life, let us rather rejoice and say again with Lucretius—

> "Cedit enim rerum novitate extrusa vetustas
> Semper et ex aliis aliud reparare necesse est."

[1] J. Bertillon, *loc. cit.*, p. 61.

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